

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

THE STATE OF MISSOURI, et al.,
Plaintiffs,

vs.
JOSEPH R. BIDEN, JR., et al.,
Defendants.

Case No.
3:22-cv-01213-TAD-KDM

14 VIDEORECORDED VIDEOCONFERENCED DEPOSITION
OF ERIC WALDO
15 DECEMBER 22, 2022

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF LOUISIANA
 MONROE DIVISION

4 THE STATE OF MISSOURI, et al.,
5 Plaintiffs,

6 vs. Case No.
3:22-cv-01213-TAD-KDM
7 JOSEPH R. BIDEN, JR., et al.,
8 Defendants.

10 VIDEORECORDED VIDEOCONFERENCED DEPOSITION OF
11 ERIC WALDO, produced, sworn, and examined on
12 December 22, 2022, between the hours of eight
13 o'clock in the forenoon and six o'clock in the
14 afternoon of that day, via different remote
15 locations, before Tammie A. Heet, a Registered
16 Professional Reporter, Certified Shorthand Reporter
17 and Notary Public within and for the states of
18 Illinois and Missouri, in a certain cause now
19 pending before the United States District Court for
20 the Western Division of Louisiana, Monroe Division
21 in re: THE STATE OF MISSOURI, et al., vs. JOSEPH
22 R. BIDEN, JR., et al.; on behalf of the Plaintiffs.

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1 REMOTE APPEARANCES

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1 IT IS HEREBY STIPULATED AND AGREED by
2 and between counsel for the Plaintiffs and counsel
3 for the Defendants that this deposition may be
4 taken in shorthand by Tammie A. Heet, RPR, CSR, CCR
5 and notary public, and afterwards transcribed into
6 printing, and signature by the witness expressly
7 reserved.

8 * * * * *

9 THE VIDEOGRAPHER: We are now on the
10 record. Today's date is December the 22nd, 2022.
11 The time is approximately 8:08 a.m., Central
12 Standard Time. This begins the videorecorded
13 deposition of Eric Waldo in the matter of The State
14 of Missouri, et al. versus Joseph R. Biden, Junior,
15 et al., Case Number 3:22-cv-01213 in the United
16 States District Court for the Western District of
17 Louisiana.

18 This deposition is being held via
19 Zoom video. The reporter's name is Tammie Heet.
20 My name is David Doell, and I'm the legal
21 videographer. We are here with Lexitas.

22 The attorneys attending remotely and
23 in person, please introduce yourselves and the
24 parties you represent.

25 MR. SAUER: John Sauer on behalf of

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1 Plaintiff State of Missouri, and I'm joined by my
2 colleagues Ken Capps and Todd Scott of the Missouri
3 Attorney General's office.

4 MS. CHUZI: Amanda Chuzi for
5 Defendants, and I'm joined by Josh Gardner of the
6 Department of Justice and Anant Kumar of the
7 Department of Health and Senior Services.

8 And before we begin, I'd like to
9 reserve the right to read and sign.

10 MR. SHORT: I'm Tracy Short on behalf
11 of the Office of the Attorney General of the State
12 of Louisiana.

13 MS. YOUNES: Jenin Younes on behalf
14 of NCLA, the New Civil Liberties Alliance.

15 THE VIDEOGRAPHER: Court reporter
16 please swear in the witness and we may proceed.

17 ERIC WALDO,
18 of lawful age, produced, sworn, and examined on
19 behalf of Plaintiffs, deposes and says:

20 EXAMINATION

21 QUESTIONS BY MR. SAUER:

22 Q. Mr. Waldo, could you please state
23 your full name for the record?

24 A. My name is Eric William Waldo.

25 Q. And have you ever given a deposition

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1 before?

2 A. I have not.

3 Q. So this is your very first
4 deposition?

5 A. That is correct.

6 Q. Can I just go over a few kind of
7 ground rules for today that are common in all
8 depositions. Will that be okay?

9 A. You may.

10 Q. First of all, could you and I be
11 careful not to interrupt each other because it
12 makes it difficult for the court reporter to take
13 down what we're saying. So can we try to do our
14 best to sort of wait until the other one finishes
15 talking as we go forward today?

16 A. That sounds reasonable, yes.

17 Q. And also, could you make an effort to
18 give a verbal answer to my questions, you know,
19 instead of saying -- shaking our head or nodding or
20 saying "huh-uh," "uh-huh," you know, try and give
21 an affirmative yes or no. And again, that helps
22 the clarity of the record.

23 A. I'll do my best, sir.

24 Q. In addition to that, if at any time
25 you have a difficulty hearing me, because we're on

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1 a remote link or don't understand the question,
2 could you please ask for clarification instead of
3 trying to guess at my meaning and answering a
4 question that you think I may have asked, but
5 you're not sure. Can you do that?

6 A. Yes. Yes, I do can that.

7 Q. In addition to that, can you listen
8 to the questions that I'm asking and answer the
9 question that I ask instead of addressing some
10 other topic that you may be interested in
11 discussing?

12 A. I will do my best to answer the
13 questions you ask, sir.

14 Q. Thank you. Let's just get started.
15 Can you tell us what your current job title is?

16 A. Senior advisor to the Surgeon
17 General.

18 Q. And then how long have you held that
19 title?

20 A. Since late June.

21 Q. Is that --

22 A. Of 2022.

23 Q. And then prior to that, did you work
24 in the Surgeon General's office?

25 A. I did.

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1 Q. What was your title then?

2 A. Chief engagement officer.

3 Q. And when -- how long were you chief
4 engagement officer for the Surgeon General' office?

5 A. From June 20th or so of 2021 to
6 around June 20th of 2022, so about one year, sir.

7 Q. And then did you hold any titles in
8 between those two?

9 A. No, sir.

10 Q. What were your job duties when you
11 were chief engagement officer?

12 A. Primarily working as liaison, helping
13 connect with the public and stakeholder groups
14 about the issues of importance in the Surgeon
15 General's office around public health.

16 In addition, I was in charge of our
17 youth mental health outreach coordination, but in
18 general, was the person helping connect the public
19 with subject matter experts and our priorities
20 around our issues.

21 Q. What issues were you particularly
22 involved in?

23 A. As I mentioned, I was the -- I was
24 sort of in charge of our youth mental health work.
25 That was the -- of our priority issues, that was

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1 the one that I ran.

2 Q. Any other issues that you were
3 engaged on?

4 A. Engaged? Can you define -- what do
5 you mean by engaged on, sir?

6 Q. Are there any other issues when you
7 were chief engagement officer that you were
8 involved in addressing for the -- for the Surgeon
9 General's office?

10 A. Yeah, so there were various issues
11 that the office was working on, and I was in some
12 way engaged on -- on most of them. So that
13 included COVID-19, including our -- our general
14 public engagement around our efforts to educate the
15 public about COVID-19, including our vaccination
16 efforts, our rollout of our COVID-19 misinformation
17 advisory.

18 Then I work on youth mental health,
19 and then our -- our -- in addition, I work on
20 workplace -- sort of -- sorry, health worker,
21 mental health, which we announced later, and then
22 some development work on our work around workplace
23 mental health and social isolation and loneliness.

24 Q. And so you had some role in the
25 rollout of the misinformation advisory, I believe

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1 **you said; is that right?**

2 A. That's correct.

3 **Q. What was your role in that regard?**

4 A. So I came into the office after the
5 advisory had already been created. I started the
6 week of June 20th of 2021, so the advisory had
7 already been developed, so I didn't have any part
8 in the development of it, but I -- I worked with
9 the team on the rollout. So how we were going to
10 communicate to the public about this advisory.

11 **Q. Who was involved in developing it, to**
12 **your knowledge?**

13 A. To my knowledge, that would have been
14 that moment Daniel Tartakovsky in the science and
15 policy team I think was the chief author in terms
16 of, like, the policy development behind the scenes.
17 At that point, he reported to Adam Beckman, who was
18 a senior advisor and I think the acting policy
19 director. We were sort of lightly staffed at the
20 beginning of the administration. Certainly,
21 Dr. Murthy would have worked on it, and then there
22 were probably some other staffers in the science
23 and policy team, like Tyiesha Short, perhaps. But
24 that's not an exhaustive list, but that's off the
25 top of my head, sir.

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1 **Q. What was that -- you mentioned a man**
2 **named Daniel as the principal author. Can you**
3 **spell his last name?**

4 A. I can try, sir. It's a -- it's a
5 Russian name, Tartakovsky.

6 **Q. Yeah.**

7 A. T-A-R-T-A-K-O-V-S-K-Y. I may be
8 incorrect, and I'm sure there are some e-mails in
9 the record that we can find, if we need to find
10 that, sir.

11 **Q. And you say Dr. Murthy worked**
12 **directly on directing the health advisory of the**
13 **misinformation advisory?**

14 A. I don't have direct knowledge of
15 that, but we worked on all our advisories, so I --
16 I have no reason to believe he didn't work on -- on
17 the advisory, wouldn't have had -- had a pen and
18 seen the drafts that Daniel put together and been
19 final signoff.

20 **Q. Okay. When you say he was involved**
21 **in all your advisories, what -- what generally is**
22 **his role? Does he edit them? You know, what does**
23 **he do?**

24 A. So I can only speak to the -- you
25 know, I saw the advisories come out for youth

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1 mental health that came out after I started. I was
2 deeply involved in that and our workplace advisory.
3 Each was a little different because our team grew
4 in size and scope, but Dr. Murthy typically
5 certainly was helping the team understand that, you
6 know, the -- was signing off on whether we were
7 going to issue an advisory or not because that's a
8 large undertaking for the office, and then in
9 addition, you know, he was certainly someone who
10 would review drafts and have -- and final signoff.

11 **Q. And did he also kind of provide the**
12 **big picture of what the advisory would address? I**
13 **mean, the idea to issue a health advisory on**
14 **misinformation, would that originate from him or is**
15 **that kind of staff decision?**

16 **A.** I don't know with respect to health
17 misinformation because that came -- that was before
18 my time in the office, but in general, there -- it
19 could have been -- it could have come in either
20 way. Sometimes a staff member may have had a
21 suggestion and say I think we ought to do an
22 advisory on this or we ought to do a report on this
23 and might make a recommendation. Or the Surgeon
24 General could say I know I want to issue more -- in
25 that -- about a specific topic.

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1 Q. And you don't know how this -- I
2 mean, I take it this health advisory on
3 misinformation that we're talking about is the one
4 that was launched on July 15th of 2021, correct?

5 A. That's the one I'm referring to, sir,
6 yes.

7 Q. Just for clarity. And you don't know
8 whose idea that was originally to do an advisory?

9 A. I do not. As I mentioned, that was
10 -- I didn't join until June of 2021, so whatever
11 the development was, or process, I was not a part
12 of it.

13 Q. Prior to June 2021, were you in
14 government? Were you working for HHS or were you
15 somewhere else?

16 A. I was not in government, sir.

17 Q. What were you doing before that?

18 A. I was working at a nonprofit.

19 Q. At which one?

20 A. The Common Application.

21 Q. What -- what is -- what is the nature
22 of that nonprofit?

23 A. The Common Application is a
24 technology nonprofit that helps students around the
25 country apply to college, so they have about 900

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1 member colleges, and it's an online application so
2 that you can apply to multiple colleges at the same
3 time.

4 Q. Did that nonprofit have any
5 involvement to issues related to COVID-19 and --
6 and health misinformation?

7 A. No, sir, none to my knowledge.

8 Q. You mentioned you had a role in
9 communicating with the public about the
10 misinformation advisory that we're talking about.
11 Can you characterize that? Describe what did you
12 actually do to -- to -- to kind of communicate
13 about that.

14 A. So to communicate about the advisory,
15 this was our first advisory so we didn't have a
16 template, but my -- my general experience in
17 government was trying to reach out to stakeholders
18 who might be interested or affected by the advisory
19 to give them a heads-up that the advisory was going
20 to come out. So setting up some stakeholder calls
21 with relevant parties.

22 And then in partnership with the
23 communications team, the policy team, and others in
24 the office, we had a general rollout, what I would
25 call -- what is called a tick-tock in the parlance

1 of DC to say, here, we're communicating on this day
2 with these parties, these are the stakeholders who
3 will receive an e-mail, these are who might post a
4 tweet, these are who -- partners we might do an
5 event with. And then we have a press team that
6 also will do communications and press for an event
7 and a rollout.

8 **Q. You mentioned key stakeholders that**
9 **you communicated with. What kinds of stakeholders**
10 **are we talking about?**

11 A. So you know, the science and policy
12 team who developed this advisory helped put
13 together a list, including some subject matter
14 experts, policy experts, folks affected by this.
15 So -- so, for instance, the technology
16 organizations, government organizations, other
17 membership nonprofits like teacher unions, et
18 cetera. Just what I would consider a robust group
19 of partners who might be interested in this work or
20 might help share the -- the advisory or be
21 interested in what the advisory has to say.

22 **Q. What -- when you mentioned technology**
23 **organizations, what does that mean?**

24 A. So given that the advisory called for
25 an all-society approach and mentioned what

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1 technology and social media companies could do, we
2 reached out to some technology and social media
3 companies.

4 Q. You -- you mentioned reaching out to
5 social media companies. Who was that, to your
6 recollection?

7 A. We definitely did pre-rollout calls
8 with Twitter, Facebook, Google/YouTube. Sorry --
9 you -- sorry. Twitter, Facebook, YouTube/Google.
10 Those are the ones I can remember off the top of my
11 head, sir.

12 Q. And then you mentioned technology
13 companies other than social media companies. What
14 are those?

15 A. I don't -- maybe I'm putting more
16 social media companies. I'm trying to think if
17 there were any other technology organizations we
18 would have reached out to. I can't recall.

19 Q. Let me switch gears a little bit.
20 I'm going to e-mail your counsel a few exhibits and
21 share one of them with you on the screen that will
22 be marked Exhibit 1.

23 MR. SAUER: Okay. And, Amanda, that
24 e-mail should be popping up in your inbox
25 momentarily.

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1 MS. CHUZI: I don't see it yet, but I
2 am looking out for it.

3 Q. (BY MR. SAUER) And then, Mr. Waldo,
4 I have attempted to screen share. Can you see this
5 document that's marked Exhibit 1 down here? That's
6 just a copy of your online LinkedIn resume.

7 A. Yes, sir. I can see it on the
8 screen.

9 Q. And then if I scroll down here a few
10 pages, the most recent entry you have here is chief
11 engagement officer for the U.S. Surgeon General,
12 correct?

13 A. That's correct, sir. That's what it
14 says.

15 Q. Yeah. And, in fact, I take it
16 recently, last June, you actually adopted a new
17 title, which is senior advisor to the --

18 A. That's correct. I've not updated my
19 LinkedIn.

20 Q. Sure, yeah. What's the difference
21 between your duties as senior advisor to the
22 Surgeon General and chief engagement officer?

23 A. We now have a different chief
24 engagement officer, so I'm no longer managing
25 staff. I also have some reduced hours because I'm

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1 taking care of some family members, and so I'm
2 mostly engaged on partnership work with respect to
3 youth mental health.

4 Q. Okay. Are you involved --

5 A. The previous --

6 Q. Go ahead.

7 A. Pardon me, sir. Go ahead.

8 Q. No, you go ahead and finish what you
9 said.

10 A. I'm okay.

11 Q. Okay. So you're -- as senior
12 advisor, you do list here general senior advisor to
13 Surgeon General, right? And I take it that since
14 June of this year, is that your only duty?

15 A. That's correct.

16 Q. And you say right now, you deal with
17 the youth mental health issues?

18 A. That's correct.

19 Q. Generally speaking, what do you do
20 with respect to those?

21 A. Working with external organizations
22 to try to, you know, help build campaign interests
23 in addressing the issues of youth mental health.
24 So helping to destigmatize youth mental health and
25 helping raise awareness on youth mental health.

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1 Q. And did you kind of step away from
2 more active duties because you had family issues?

3 A. That's correct, sir.

4 Q. And that started last June, I take
5 it?

6 A. That -- that started June 20th of
7 2022, sir.

8 Q. Okay. So you were in the chief
9 engagement officer role for almost exactly a year,
10 correct?

11 A. That's correct.

12 Q. And I believe you said you started on
13 June 20th of 2021?

14 A. Exactly. It's, like, literally --
15 I'd have to go look. It's about -- I think it's
16 approximately a year.

17 Q. And I take it you're -- you said one
18 of the reasons of that is you're taking care of
19 some family members; is that right?

20 A. That's correct.

21 Q. Yeah. And that's, in fact, why we're
22 doing this deposition by Zoom today, correct? You
23 asked for it to be done by Zoom because you're
24 worried about, you know, having exposure, correct?

25 A. I asked to be able to be deposed with

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1 my mask on, that -- because I wanted to reduce
2 exposure to my family members, that's correct.

3 Q. Okay. Yeah. And we ended up in a
4 compromise where we're taking it by Zoom and people
5 observing are masked, correct?

6 A. That's correct.

7 Q. So since last June, at least, you've
8 had to observe restrictions in your personal life
9 to be careful around people that might expose you
10 to illnesses?

11 A. That's correct.

12 Q. Okay. Looking here, you say senior
13 advisor Surgeon General, and you describe your
14 duties on LinkedIn as, quote, advising and
15 designing constituent and public-facing campaigns
16 around the country and the world around -- and you
17 mention COVID-19 vaccines and health
18 misinformation, correct?

19 A. That's correct.

20 Q. Yeah. What is -- what constituent
21 and public-facing campaigns did you advise and
22 design for that related to health misinformation?

23 A. I think it was really our rollout and
24 then advising on -- on how we were engaging with
25 the public on health misinformation and how it

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1 should sit as a -- how we wanted to continue to
2 follow up from our -- our -- our advisory.

3 Q. What kind of follow-up to the
4 advisory were you involved in?

5 A. We worked in the office to also do
6 a -- I guess I'd call it -- it was like a community
7 toolkit for how folks could have conversations with
8 others around health misinformation in their
9 community.

10 Q. Was there anything else? Was there
11 any other follow-up related to the health advisory
12 that you recall?

13 A. Can you be more specific about what
14 type of follow-up?

15 Q. Well, I thought that was the phrase
16 that you used when I asked you what you meant --

17 A. I see.

18 Q. Yeah, yeah. And I just wanted to
19 know what you meant.

20 A. With respect to campaigns, that --
21 you know, that was the only sort of, like, product
22 we put out or additional pieces. Certainly,
23 Dr. Murthy continued from a communications
24 perspective to talk about health misinformation
25 using his bully pulpit.

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1 But that's -- you know, we sort of --
2 I think our -- our role in the Surgeon General's
3 office is to elevate issues of public health that
4 are priorities for the Surgeon General's office,
5 and we want to make sure the public is aware, and I
6 think that was done vis-a-vis the advisory. And so
7 now, you know, as the advisory calls for an
8 all-society approach, I think we're also, you know,
9 continuing to see how folks are doing that. But
10 that's -- it's sort of deprioritized after our
11 announcement.

12 **Q. Yeah, I think you mentioned Surgeon**
13 **General Murthy using his bully pulpit to elevate**
14 **the issue of health misinformation that's addressed**
15 **in the advisory. What do you mean by that?**

16 A. So, you know, this is a little bit --
17 the Office of the Surgeon General, as opposed to,
18 let's say, the secretary of HHS, you know, the
19 Office of the Surgeon General doesn't have a --
20 doesn't have a budget in terms of, you know, we
21 don't give out grants, we aren't a regulatory
22 agency in terms of -- you know, I worked at the
23 Department of Education in a previous life, and
24 it's not like we have Title IX authority.

25 We're not showing up to regulate

1 people, we're not giving out grants. So the
2 primary power of the office is, I think, around its
3 reputational authority, its ability to convene
4 people, its ability to help drive attention to an
5 issue.

6 I think most famously is certainly
7 the Surgeon General's report on smoking or the
8 Surgeon General's report on HIV/AIDS. So being
9 able to make sure the public is aware of issues
10 that are of public interest for the public health.

11 **Q. And you describe that as the**
12 **principal power of the office is to drive this kind**
13 **of public awareness. How has that power been used**
14 **by the Surgeon General's office while you've been**
15 **there to address misinformation?**

16 A. Again, I think primarily by issuing
17 the reports. So again, I think -- I think it's
18 having the infomateur of the Surgeon General saying
19 this is a big public health issue is -- helps,
20 whether you're a nonprofit, whether you're a doctor
21 in the field, whether you're a constituent or just
22 a citizen of the country, oh, wow, I didn't know
23 this was an issue, I should be aware of it.

24 Again, much like smoking, you may not
25 have been aware that smoking was a hazard to your

1 health before someone said this is hazardous, I
2 need to be thoughtful about it. So raising this, I
3 think, helps the field, you know, say we want to
4 understand this more, we want to work on it, et
5 cetera.

6 Q. And does the Surgeon General's power
7 extend to, for example, persuading social media
8 companies to be more proactive in addressing health
9 misinformation?

10 A. I think certainly the Surgeon General
11 has the ability to -- to talk to the relevant
12 stakeholders and say we want you to be aware of
13 this issue and that we think you have a role to
14 play to improve the health outcomes, yes.

15 Q. And that -- that -- when you say "the
16 relevant stakeholders" there, that includes social
17 media platforms?

18 A. Yes, we call out social media
19 platforms in the advisory.

20 Q. Yeah, yeah. And you say "call out,"
21 you mean you're kind of calling for them to take
22 more substantial or aggressive action to address
23 misinformation on their platforms, correct?

24 A. I believe the advisory says what
25 social -- it has a section that says what social

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1 media companies can do with some potential steps or
2 actions that social media companies could take, and
3 it's a -- a range of actions.

4 Q. Uh-huh. And then does the Surgeon --
5 you've mentioned the Surgeon General's bully pulpit
6 earlier. What -- what's that exactly? Is that
7 visibility to kind of make public speeches and, you
8 know, put kind of public pressure on an issue?

9 A. I think the bully pulpit, the way I
10 mean it, is really the fact that he commands
11 attention, including being able to, as you
12 mentioned, you know, speak with the press, speak
13 with the public, and I think people take him
14 seriously as a -- as, you know, I think we think of
15 the Surgeon General as the nation's doctor. But
16 when he says something is an issue of public
17 health, we think that people will -- you know, are
18 more likely to listen and hear and hopefully take
19 steps to improve health outcomes.

20 Q. And you say "take steps to improve,"
21 the idea would be the Surgeon General's use of the
22 power that you described as the bully pulpit would
23 drive change, you know, change that the Surgeon
24 General views as positives when it comes to the
25 dissemination of health misinformation?

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1 A. In that respect -- with -- in all --
2 all the issues that he's raising, we are trying to
3 improve health outcomes, and, yes, absolutely
4 including health misinformation.

5 Q. And so the goal of the use of that
6 power is to kind of reduce the dissemination of
7 health misinformation and promote the dissemination
8 of kind of accurate health information. Fair to
9 say?

10 A. That sounds fair. I think in
11 general, the Surgeon General saying health
12 misinformation is an -- is an issue, misinformation
13 is an issue that we need to address, and I think he
14 calls for an all-society approach, including
15 studying it, taking steps to, you know, essentially
16 reduce that harm, which I think there are multiple
17 ways, and you know, again a little bit -- to go
18 back to the smoking analogy, we need to learn what
19 are the steps you can take, you know, is it -- is
20 it stopping smoking, is it -- is it reducing, is
21 it, you know, Nicorette gum? What are the things
22 you can do?

23 And again, in the advisory, the
24 Surgeon General makes some potential
25 recommendations of what, again, everyone can do

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1 across the society, but certainly among the
2 technology/social media companies.

3 Q. Right. And particularly, I seem to
4 recall there's recommendations of specific steps
5 the social media platforms are, as you said
6 earlier, called out to take to reduce the spread of
7 misinformation on the platforms. Fair to say?

8 A. I think that's fair to say.

9 Q. Has that been a common theme, not
10 just in this misinformation, but in this Surgeon
11 General's public communications about health
12 misinformation on social media platforms?

13 A. I would say across, actually,
14 everything the Surgeon General is saying and doing
15 with our advisories, he's -- certainly tries to
16 provide ways that we can improve the public health
17 outcomes.

18 So for youth mental health, we say
19 here's what different organizations, stakeholders
20 can do. We did that for our health worker
21 advisory, and certainly we did it for the
22 misinformation advisory as well.

23 Q. And that includes communications that
24 are conducted both publicly, like in public
25 speeches and so forth, and also communications kind

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1 of conducted in private and kind of direct
2 engagements with social media platforms?

3 A. Sorry, can you -- can you rephrase
4 the question or repeat the question, sir?

5 Q. Does that, you know, message of
6 calling out the social media platforms to take
7 steps to reduce the spread of misinformation on
8 their platforms, has the Surgeon General's office
9 conveyed that message in private through private
10 engagement with social media platforms as well as
11 public engagement?

12 A. Yes, I think that what we're saying
13 publicly, we're also, you know, between the rollout
14 said that privately to them as well.

15 Q. What -- what kind of private
16 engagement was there in 2021 with respect to social
17 media platforms?

18 A. So I think I mentioned this before,
19 sir. We did what I would call, like, a -- rollout
20 calls. So before the advisory came out, these were
21 calls where I was reaching out to mostly either
22 government relationsy (phonetic), public policy
23 folks to get on the phone to give them a heads-up
24 that the advisory was coming out, that it was still
25 embargoed, to give them a rough sense of what it

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1 was going to say, and that we would share the
2 advisory with them when it came out. Those are the
3 original calls that occurred.

4 And then I think because of -- you
5 know, because of, I think, some of the rollout
6 statements that were made, we ended up doing an
7 additional call with Facebook, who I think was
8 upset about how the rollout had gone.

9 Q. You -- you -- you recall an
10 additional call with Facebook. Do you remember
11 what was discussed in that call?

12 A. So again, we had two -- I think a
13 rollout -- there was an original rollout call with
14 Facebook that was at, I think, what I would call a
15 staff level. We were trying to schedule it before
16 the rollout. Facebook was unable to schedule it,
17 and it ended up happening, I think, the day of
18 rollout.

19 So on that day, Press Secretary
20 General Jen Psaki had already made remarks
21 specifically about Facebook, and then I believe
22 that's -- either in congruity with the call or
23 sometime either before or after was when President
24 Biden made his remarks that social media and
25 Facebook were killing people. So that call was

1 more originally just a high level, we put this out,
2 and I connected the Facebook folks with our -- one
3 of our subject matter experts. So I think there
4 was some back-and-forth questions, but it wasn't
5 really -- not -- I wouldn't call it the most
6 productive call.

7 Then later, with our call, we had a
8 call with Nick Clegg from Facebook, and at his
9 request, and that was, I think, a call meant to --
10 his intentions were to sort of I think deescalate
11 and just find ways that we could work together,
12 given how Facebook would -- was -- was treated in
13 that rollout day.

14 **Q. Did you find ways to deescalate and**
15 **work together?**

16 A. I -- I -- I'm not sure in the sense
17 that we didn't really do any much more work
18 together. We certainly had a call that I think was
19 cordial where Dr. Murthy, I think, acknowledged
20 that it must have been hard for the Facebook team
21 to go through that rollout day, given how they were
22 called out by the -- the President and the Press
23 Secretary, and you know, we had asked questions
24 and -- and brainstormed on ways to work together.

25 **Q. When you say "brainstormed on ways to**

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1 **work together," were the people from the Surgeon**
2 **General's office, you know, communicating with**
3 **Facebook about what the Surgeon General would like**
4 **to see them to do more or to do better about the**
5 **spread of misinformation on their platforms?**

6 A. The Surgeon General -- on the call
7 with Nick Clegg, the Surgeon General did, I think,
8 reiterate the idea that, you know, as we described
9 in the advisory, that we think there's more that
10 the technology -- that Facebook and other social
11 media companies can do, and I think this -- yeah,
12 that's -- that's what we -- we reiterated that.

13 Q. **Sorry. And what -- was it specific**
14 **-- do you remember Dr. Murthy saying, hey, you**
15 **know, honestly the health advisory has some pretty**
16 **specific proposals in it? Did Dr. Murthy say in**
17 **this call with Nick Clegg that, you know, hey, we'd**
18 **really like to see you do this specific thing and**
19 **that specific thing?**

20 A. Not to my recollection. I think the
21 most specific questions were about understanding
22 the data around the spread of misinformation and
23 how we were measuring that, and whether or not, you
24 know, how -- how we could have external researchers
25 validate the spread of misinformation and -- and

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1 helping us as a field understand the depth of the
2 problem.

3 Q. When you say "external researchers,"
4 what sort of people would we be talking about? Are
5 you talking about people outside of the Surgeon
6 General's office?

7 A. Yeah. So I think in general --
8 again, I haven't -- I'd have to go back and look at
9 the advisory, but I think the notion is how -- I
10 mean, we would want external researchers outside
11 the Surgeon General's office, you know, academics
12 to be able to say -- just like we would with any
13 other public health issue, we think -- you know,
14 here's how we're measuring the harm and the impact,
15 and that it -- I think the conversation was, like,
16 it's currently difficult to do so.

17 Q. Do you know how many academics who do
18 that kind of research?

19 A. I do know -- at least we did a
20 rollout event for the -- for the -- for the day of
21 the -- I think the day or the week of the advisory
22 with Renee DiResta from the Stanford Internet
23 Observatory. That's one person I know externally.

24 Q. Anyone else?

25 A. Not off -- I'd have to ask someone

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1 like Daniel from the policy team who would be other
2 external folks, but my -- my imagination is, again,
3 sort of, you know, tier one research institutions
4 and partners who would -- would have researchers
5 who are certainly interested in this data.

6 Q. Do you know if -- you say Daniel with
7 the Russian last name and the policy team, do you
8 know if they worked with those kinds of external
9 researchers when they were developing the health
10 advisory?

11 A. I don't have any specific knowledge
12 about that, sir.

13 Q. Do you know if it was -- you
14 mentioned, I think, Renee DiResta. Do you know if
15 there was any interaction between the Surgeon
16 General's office and Professor DiResta in the
17 leading up to the development of the July 15th
18 misinformation advisory?

19 A. I'm not familiar. As I mentioned,
20 the -- the advisories were developed before --
21 before I arrived, so I don't know who -- who was
22 consulted for that.

23 Q. Do you know, were there
24 communications or coordination with Professor
25 DiResta after the advisory came out?

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1 A. I know there was coordination with
2 her with respect to the launch of the -- there was
3 a panel, a public sort of virtual town hall that we
4 hosted with -- with the Sanford Internet
5 Observatory that Dr. Murthy spoke at, and that was
6 part of the launch day. So certainly there would
7 have been coordination with -- with her, with
8 respect to that panel.

9 **Q. And you -- I think you mentioned that**
10 **launch would have occurred in the day or the week**
11 **of the -- of the advisory in July of 2021?**

12 A. Yeah, it -- it was either that week
13 or, like, shortly thereafter. It would have been
14 within the, I would say a week, of the -- of the
15 launch we would have had that event with her. I
16 don't recall the date off the top of my head.

17 **Q. Is -- is Professor DiResta affiliated**
18 **with an academic institution or a think tank or**
19 **what?**

20 A. I believe that -- that was with
21 Stanford, so -- but I don't -- I don't know.

22 **Q. Are you aware of any other kind of**
23 **communications or coordination with Professor**
24 **DiResta after that launch event?**

25 A. I think that we had another subject

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1 matter expert, Kyla Fullenwider, who was a subject
2 matter expert and -- and worked on the advisory
3 with Daniel. And I believe she maybe did a
4 follow-up call with Renee after the event.

5 Q. Was she -- when you say "subject
6 matter expert," is she an -- and employee of the
7 Surgeon General's office?

8 A. I believe so. I think she was
9 detailed to the office. I'm not -- I don't
10 precisely know what her employment status was. I
11 don't know if it was a contractor, I'm not sure if
12 it was an IPA, or -- or if it was a direct hire.
13 But she certainly had a -- some relation -- some
14 more formal relationship with the Surgeon General's
15 office.

16 Q. Where was she actually employed?

17 A. I'm not sure, sir.

18 Q. Okay. What -- what is her subject
19 matter expertise?

20 A. What's that?

21 Q. You mentioned that she's a subject
22 matter expert. What exactly is she a subject
23 matter expert in?

24 A. I believe she's a subject matter
25 expert in health mis- and disinformation.

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1 **Q. So she's a health mis- and**
2 **disinformation researcher, like Professor DiResta,**
3 **to your understanding?**

4 A. I'm not -- I don't know that -- I'm
5 not deeply familiar with her bio, but she certainly
6 was considered a subject matter expert that was
7 working on this issue. She may have multiple areas
8 of expertise.

9 **Q. You mentioned that there was some**
10 **kind of communication or later communication**
11 **between her and Professor DiResta at Stanford. Do**
12 **you know what the nature of that communication was?**

13 A. I believe we did a call that was more
14 of a brainstorm around, you know, again, potential
15 other events or, you know, public-facing --
16 public-facing events that we could do to talk about
17 this issue.

18 **Q. And you were on that call along with**
19 **Ms. Fullenwider and the professor from Stanford?**

20 A. I was, yeah.

21 **Q. What else was discussed in that call?**

22 A. I don't recall, but I just remember
23 -- I do remember that we talked about sort of if
24 there were events that we could do for follow-up.
25 But that's -- that's -- that's the most of my

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1 recollection.

2 Q. Did Ms. Fullenwider and Professor
3 DiResta discuss misinformation issues in the calls?

4 A. I mean, most likely. It was -- it
5 was about how we would follow up about
6 misinformation, so that was broadly the subject.

7 Q. And what -- what else was discussed
8 in that call, to your recollection, if anything?

9 A. I don't have any other recollection
10 of that call.

11 Q. Did you talk in the call?

12 A. I think I was more listening. This
13 is some -- mis- and disinformation was not in my
14 area of subject matter expertise coming into this
15 job, and so I was just trying to learn and -- and
16 make sure I was aware of, from a public engagement
17 perspective, how we might think about talking with
18 stakeholders or, you know, just move -- continue --
19 if we wished to moved the ball forward and continue
20 to have public engagement, how we might do so. So
21 I was more in listening mode.

22 Q. Gotcha. But I take it
23 Ms. Fullenwider was acting on behalf of the Surgeon
24 General's office in that call. She's not an
25 outside researcher that you're connecting with

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1 Professor DiResta, but she's a -- has some, in your
2 understanding, formal role with the Surgeon
3 General's office, correct?

4 A. That's my understanding, sir.

5 Q. Okay. But you don't know exactly
6 what it is, whether she's an employee or an outside
7 contractor or anything like that?

8 A. I do not.

9 Q. Okay.

10 A. There are various ways that one can
11 be employed in the Office of the Surgeon General,
12 so I don't know what her employment status -- what
13 formal structure she had in place.

14 Q. Other than that call, are you aware
15 of any other kind of communications with Professor
16 DiResta or anyone at Stanford relating to mis- and
17 disinformation after the health advisory was rolled
18 out in July of 2021?

19 A. Not to my recollection.

20 Q. How about any other outside
21 researchers at any other institution, are you aware
22 of communication and coordination between the
23 attorney -- sorry, the Surgeon General's office
24 and -- and any other outside researchers or
25 research entities?

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1 A. There was at least one entity that
2 briefed -- I think it was not just the Surgeon
3 General's office, it briefed -- I think it was
4 brought in by someone else at HHS that was an
5 external group that had research on, like, their --
6 their views on -- on mis- and disinformation and
7 the effects of mis- and disinformation so I
8 definitely sat in on one other briefing.

9 **Q. Do you know who that was, what group**
10 **that was?**

11 A. I don't. It was -- it was an outside
12 group that I think was brought in by someone at
13 HHS, and their -- it was a separate HHS sort of
14 public affairs shop, and they had requested a
15 briefing, so I was looped in, given that we had
16 done the outreach. So I sort of sat and listened
17 to the -- a briefing on the health and mis- and
18 disinformation from their perspective.

19 **Q. Do you remember who at HHS called for**
20 **that meeting or called for the briefing?**

21 A. It was the person who invited me, I'm
22 blanking on her name. She's now left the office,
23 but she worked for Marvin Figueroa was my
24 recollection.

25 **Q. Who's Marvin?**

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1 A. Marvin has some -- a senior public
2 affairs job. I don't know what his official title
3 is.

4 Q. What was the nature of the outside
5 group? Was it a think tank, was it a set of
6 academic researchers?

7 A. I think it was -- I think it was a
8 mix of those things, sir. I don't really recall.
9 I'm not positive.

10 Q. Do you know when the meeting
11 happened?

12 A. It's sometime probably within two
13 weeks, you know, before or after the rollout. I
14 think probably after, given that I think that's why
15 I got looped in, because we put out the advisory.

16 Q. Okay. So probably within a couple
17 weeks of that July 15th health advisory rollout?

18 A. Yeah.

19 Q. What was -- what kind of
20 misinformation issues or concerns were addressed in
21 that -- that briefing?

22 A. I think what I remember the most was
23 this group talking -- talking about the
24 misinformation dozen.

25 Q. Was this the Center for Countering

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1 **Digital Hate, by any chance?**

2 A. That may be it, sir. I'm not
3 positive. That sounds -- that sounds familiar.

4 Q. Yeah, CCDH -- I mean, they're the
5 **ones who identified the Disinformation Dozen. Does**
6 **that ring a bell?**

7 A. That does. That sounds familiar.
8 I'd have to check my e-mails to be -- or calendar
9 to be certain, but that sounds accurate.

10 Q. **That is -- so you attended a**
11 **briefing, along with HHS officials, from the Center**
12 **for Counter -- Countering Digital Hate around**
13 **second half of July 2021, to the best of your**
14 **recollection?**

15 A. I would want to check to make sure
16 that's the group, but it was certainly -- if it's
17 not the group, it's certainly those same issues,
18 sir.

19 Q. **And what did they say about the**
20 **Disinformation Dozen?**

21 A. I mean, I -- I think overall, it was
22 highlighting that they were the -- the main source
23 of health misinformation around COVID-19 and
24 vaccines was my recollection.

25 Q. **What did they -- when you said**

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1 "highlighting that they were a main source," that
2 means highlighting that the so-called
3 Disinformation Dozen were a main source of online
4 social media disinformation?

5 A. Correct.

6 Q. And did they propose any action
7 items? Did they want actions to be taken against
8 the Disinformation Dozen?

9 A. I don't recall.

10 Q. Do you know if that group
11 communicated with anyone else in the federal
12 government about the Disinformation Dozen?

13 A. I don't -- I'm not sure.

14 Q. Do you remember anything else that
15 was said in that -- that meeting with HHS
16 officials, Mr. Figueroa's office, yourself, and the
17 CCDH, was anything else discussed?

18 A. I don't recall. I think it was
19 mostly a listening session. We were -- they had a
20 presentation that they were giving, so it was
21 mostly an information in session.

22 Q. So did they give, like, a PowerPoint
23 or something like that?

24 A. That's correct.

25 Q. Do you know what the PowerPoint said?

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1 A. I think as we discussed, sir, the --
2 it was a presentation about the Disinformation
3 Dozen and sort of how they were measuring those --
4 that those were the folks primarily responsible for
5 a lot of misinformation online.

6 **Q. And they're actually external**
7 **researchers who are kind of tracking misinformation**
8 **online, correct?**

9 A. I don't have deep expertise about
10 that organization or group, so I'm not sure.

11 **Q. Did you do anything with the**
12 **information you got in that briefing, like did you**
13 **relay it back to anyone in the Surgeon General's**
14 **office?**

15 A. In all likelihood, I probably
16 forwarded the PowerPoint to some members of the
17 policy team, probably Daniel and Kyla would be my
18 guess, but I'd have to go back and check.

19 **Q. And that's the two -- Daniel and Kyla**
20 **is Daniel with the Russian name and Kyla**
21 **Fullenwider, correct?**

22 A. That's correct.

23 **Q. And you believe most likely you**
24 **e-mailed them the -- the -- the PowerPoint from**
25 **this presentation about the Disinformation Dozen?**

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1 A. That's correct.

2 Q. Anyone else -- was anyone else at
3 that meeting, other than the HHS official,
4 yourself, and the presenters?

5 A. I'm not positive. I don't recall.
6 It was probably a big call in terms of I think
7 there were a lot of folks from that organization,
8 and then I -- I think I had invited Daniel and Kyla
9 to the call. I don't think they made it. And I
10 would have perhaps also invited Rafael Compos, who
11 was another member of the engagement team.

12 Rafael helped create the event with
13 -- with -- with the Sanford Internet Observatory
14 for the launch, so this was in his sort of
15 portfolio on my team. So I would have invited
16 Rafael, perhaps.

17 Q. How do you spell his name?

18 A. Rafael is just R-A-F-A-E-L, and then
19 Compos is C-O-M-P-O-S.

20 Q. Was he -- I think you mentioned he
21 was the point person working with Stanford and
22 Professor DiResta and the launch event?

23 A. So Rafael, yes, that is correct.

24 Q. Did he have other communications with
25 Stanford or Professor DiResta?

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1 A. I'm not sure. I imagine he would
2 have in the run-up to the event. So Rafael was a
3 member of my team who was helping plan that rollout
4 event, and it was -- prior to my arrival was the
5 main engagement person working on rollout.

6 Q. How about after the event, did he
7 have communications with them afterwards?

8 A. I'm not sure.

9 Q. I'm showing you a document that's
10 previously marked Exhibit 2 that I e-mailed to your
11 lawyer a little while ago as well. Can you see
12 that?

13 A. I do.

14 Q. You see this document called OSG
15 high-level org chart marked Exhibit 2?

16 A. I see it, sir, yes.

17 Q. And then down here, you're listed
18 right here as the leader of the engagement team for
19 the Surgeon General's office?

20 A. That's correct.

21 Q. And it says that you lead outreach
22 and engagement with key stakeholders and groups,
23 correct?

24 A. That's correct.

25 Q. And it talks about how you have

1 relationship management with nonmedical groups and
2 key influencers?

3 A. That's correct.

4 Q. What does that mean "relationship
5 management with nonmedical groups and key
6 influencers"?

7 A. So I think the notion that we had as
8 we were continuing to build and design this version
9 of Surgeon General's team, which is certainly
10 unique is that we would -- the engagement team
11 would be designed a little bit like the White House
12 Office of Public Engagement.

13 So we would think about different
14 constituent groups and how we were reaching out to
15 them. So whether that's -- so you might think
16 there's civil rights groups, education groups,
17 mayors, governors, sort of a litany of
18 organizations, foundations, philanthropy, et
19 cetera, that there's sort of a list of high-level
20 organizational groups who we might want to reach
21 out to about our issues or might have feedback for
22 us as well.

23 And then our team would be the main
24 liaison. So we'd be the person helping have a
25 point of contact at the PTA or at the -- at the

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1 NEA, at AFT, and say, great, we have that
2 relationship, and we may connect them with
3 different members of our team, but when we're doing
4 an event on youth mental health, we know, well,
5 gosh, if we want to talk to parents, you know, the
6 engagement team has the contact and the Rolodex
7 with the -- the PTA or with the AFT or with the
8 teacher union or with a school district. So we
9 were sort of -- that was the notion of how we could
10 help the relationship management.

11 Q. And I take it that that -- those
12 contacts would extend to social media platforms as
13 well, that you as the engagement team leader would
14 be the one in charge of maintaining the contacts
15 and the relationships with representatives of
16 social media platforms?

17 A. That's correct.

18 Q. Yeah, and you --

19 A. I think social media, there's, like,
20 two versions of that where also given that on
21 some -- in other cases, we are working social media
22 on just, you know, the -- the Surgeon General might
23 be having a Twitter town hall that our coms team
24 might take the lead or we might loop in other
25 members of the team as appropriate. So if it was

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1 more of a press event, we may, you know -- there
2 may be some co-ownership.

3 Q. Gotcha. Whereas other kind of
4 engagements would fall more under your wheelhouse
5 that wasn't about, you know, rolling something out
6 on Twitter and Facebook, right?

7 A. I'm sorry, can you repeat that, sir?

8 Q. Other engagement that wasn't kind of
9 about the Surgeon General's office pushing public
10 communications onto social media platforms, other
11 engagement with social media platforms would fall
12 under your responsibilities?

13 A. I think so. Again, trying to -- my
14 view is that our team would be the -- help maintain
15 the relationships, and then connect them with the
16 subject matter experts on the policy team or -- or
17 more -- we're a more, very cross-functional team,
18 but we were the ones who would be sort of the folks
19 helping manage those relationships, know who we
20 needed to reach out to in the constellation and
21 then connect them to the right people to help share
22 the information.

23 Q. Who did you develop contacts with,
24 social media platforms? Like how'd you know who to
25 talk to at Facebook or Twitter, you know, when

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1 you -- I think you mentioned earlier you reached
2 out to them, you know, to loop them in, that the
3 health advisory was coming. How did you know who
4 to talk to there?

5 A. During the rollout when I arrived,
6 there had had already been a lot of work done --
7 again, this was our first rollout, and it was
8 really, you know, my first two days I got looped
9 in. I think Daniel had taken a crack at, again, a
10 rollout tick-tock of here's who we need to reach
11 out to, here's the days we're going to do it.

12 And I think there was a list of --
13 of -- of technology companies and people were
14 dropping in names of, you know, the folks they knew
15 or who we might reach out to.

16 So I think -- I know certainly
17 Dr. Murthy was the one who flagged for me that we
18 should reach out to Nick Clegg, so he had his --
19 his contact information. For the other
20 organizations, I'm not -- I don't really recall.
21 It probably came from a spreadsheet that Daniel
22 had.

23 I'd worked with Twitter certainly in
24 other jobs, and I knew at least, like, a person or
25 two. I may have sent a -- you know, I had contact

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1 at -- at Google from a different -- from a previous
2 employment and asked, hey, who's the government
3 affairs person? So I may have asked that. I don't
4 really recall, but it was either crowd-sourced in a
5 Google -- or in an Excel spreadsheet or previous
6 spokes- --

7 So we can see when you're typing, if
8 someone's typing an e-mail -- an e-mail right now.

9 Q. Sorry, yeah. I'll get rid of that.

10 Let me ask you this: I think you had
11 mentioned that Daniel had a spreadsheet of
12 contacts. Do you know where he got those contacts?

13 A. I do not.

14 Q. How about do you know if he had
15 communicated with them prior to your starting in
16 June? On June 20th of 2021, had he been touching
17 base with social media platforms before that?

18 A. I don't know. I don't think so.
19 Because when we were talking about the rollout, a
20 very specific decision was made that I would do the
21 outreach to the -- to those organizations, and I
22 took the implication, but I don't really remember
23 that there hadn't been deep contact with them. I
24 think partly because we didn't think they would be
25 happy about this -- you know, the content of the

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1 advisory.

2 Q. Let me ask you this: What -- do you
3 know if anyone -- prior to your starting on
4 June 20th of 2021, do you know if anyone in the
5 Surgeon General's office had any contact with
6 social media platforms like Facebook, Twitter
7 Google/YouTube?

8 A. I think there was at least one call
9 that I'm aware of that the Surgeon General had with
10 Facebook during the transition.

11 Q. When you say "during the transition,"
12 would that have been prior to the inauguration of
13 the President?

14 A. That's correct. During the
15 transition team, sometime between November -- I
16 guess I don't know when the election was --
17 November 8th and -- and January 2020.

18 Q. Do you know roughly when in that time
19 frame there would have been a call --

20 A. I don't.

21 Q. -- between --

22 A. I do not.

23 Q. Go ahead. Were you involved in that
24 call?

25 A. I was not.

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1 Q. Okay. How do you know about it?

2 A. When we were setting up our call with
3 Nick Clegg, I mentioned to folks who had been on
4 the call with Facebook for that rollout call, and
5 Dr. Murthy had mentioned that he had been on a call
6 with that person during the transition.

7 Q. What person was that, other than Nick
8 Clegg?

9 A. It was a -- someone -- it was, like,
10 a data person from the Facebook team.

11 Q. Do you know what was discussed in
12 that call between Surgeon General Murthy and the
13 data person from the Facebook team during the
14 transition?

15 A. I'm not positive, but I believe it
16 was, again, about that issue of trying to
17 understand the reach of the mis- and disinformation
18 and understanding, you know, how far it was
19 spreading.

20 Q. Do you know -- do you know anything
21 that was said in that call?

22 A. I do not.

23 THE REPORTER: I'm sorry, what was
24 that?

25 Q. (BY MR. SAUER) Do you know anything

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1 that was said in that call?

2 A. I do not.

3 Q. And are you aware -- or do you know
4 what the nature of the concern was about the reach
5 of mis- and disinformation that was raised in that
6 call?

7 A. I'm not sure.

8 Q. Do you know if anyone participated in
9 that call from the Surgeon General's team, so to
10 speak, other than Dr. Murthy?

11 A. I'm not sure.

12 Q. How about -- how about any other
13 calls prior to your starting on June 20th of '21,
14 or any other communications, between anyone on the
15 Surgeon General's team and social media platforms?

16 A. I am not aware of any.

17 Q. Down here, turning your attention
18 back to Exhibit 2, there's a person listed here:
19 Anne Kim is the head of the design and innovation
20 team. Do you see that?

21 A. Yes.

22 Q. And it says she creates digital
23 platforms. Do you know what that means?

24 A. So Anne comes from a design
25 background at a firm called IDO, and so I think she

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1 has members of her team who also, you know, were
2 doing a website refresh for the Surgeon General's
3 team. So I think it's -- some of those online
4 digital -- digital content.

5 Q. That -- so when it says produces
6 nonwritten content, is that, like, photos and
7 videos for the Surgeon General?

8 A. Yes, correct, yeah. So, like, and
9 also I think now the Surgeon General has a -- a
10 podcast as well that I think her team has been key
11 on designing.

12 Q. Okay. And at the bottom of the list
13 there, it says that she directs mis- and
14 disinformation engagement. Do you see that?

15 A. I do.

16 Q. And what does that involve?

17 A. I think -- again, I'm not sure when
18 -- which version of this -- obviously this org
19 chart continued to change over time. I think it's
20 likely because Kyla Fullenwilder reported up to
21 Anne Kim. And since Kyla, I think, was our main
22 subject matter expert or continued to do work on
23 mis- and disinformation, maybe that was why that
24 was put under Anne's list of duties.

25 Q. You don't think that Ms. Kim herself

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1 was directly carrying out the direction of mis- and
2 disinformation engagement?

3 A. Not to my knowledge.

4 Q. But you think that Kyla Fullenwilder
5 was doing that?

6 A. Kyla was definitely working on mis-
7 and disinformation.

8 Q. And what was she doing? When you say
9 she's working on it, what was she doing?

10 A. I know Kyla was, again, with Daniel,
11 I think probably working -- well, I wasn't there,
12 but I'm pretty sure she was working with Daniel on
13 the design of the -- of the advisory. And then I
14 think Kyla was continuing to help us think about
15 were there additional ways we might engage.

16 So I know that Kyla, I think, was the
17 principal designer of options around follow-up with
18 respect to data. So I think the Surgeon General's
19 office put out an RFI around misinformation data,
20 and I think Kyla worked on that.

21 Q. And that RFI, is that the one that
22 was launched on March 3rd of 2022?

23 A. That sounds correct, sir.

24 Q. Yeah. And your understanding is Kyla
25 Fullenwilder worked on developing that. Is that

1 **fair to say?**

2 A. That's my understanding, sir.

3 **Q. What was her role in that, to your**
4 **knowledge?**

5 A. I'm not entirely certain, but I think
6 she was the subject matter expert who was chiefly
7 creating options for the Surgeon General's -- you
8 know, to consider how we would continue to, you
9 know, talk about mis- and disinformation with
10 respect to data.

11 **Q. Do you know who else was involved in**
12 **developing that RFI?**

13 A. I'm not sure, but I think Max Lesko,
14 the chief of staff, was helping Kyla process-wise
15 for that.

16 **Q. You mentioned Mr. Lesko, he's here on**
17 **the org chart, and you report directly to him,**
18 **right, through this current line?**

19 A. That's correct, yep.

20 **Q. What's his role when it comes to --**
21 **to your knowledge, when it comes to dealing with**
22 **mis- and disinformation issues?**

23 A. I think Max became a de facto lead as
24 teams -- as teams shifted and helped -- helped
25 follow up on engagement. You know, I was doing the

1 rollout, then I went on paternity leave, then Adam
2 left -- Adam Beckman, and then -- so I think -- I
3 think Max sort of filled in the gap and was
4 certainly helping Kyla and helping advise the
5 Surgeon General on -- on -- on some of the
6 misinformation issues of if there was any follow-up
7 we needed to do.

8 **Q. Was Max Lesko involved in**
9 **communicating directly with social media platforms,**
10 **for example --**

11 A. To my knowledge, Max was the person
12 who sent the RFI to the tech companies while I was
13 out.

14 **Q. And when were you on paternity leave?**

15 A. There were two rounds of paternity
16 leave.

17 **Q. Congratulations.**

18 A. You know, around one month or
19 between -- around September 16th to, like,
20 October 16th or 17th, I'd have to check, and then
21 around January through early March.

22 **Q. Okay. Did Mr. Lesko have any other**
23 **communications with social media platforms that**
24 **you're aware of?**

25 A. Not to my knowledge.

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1 Q. How about Kyla Fullenwilder --

2 A. Actually, sorry -- sir --

3 Q. Go ahead.

4 A. -- may I -- no, that -- no, I'm
5 right, sorry, not to my knowledge.

6 Q. Okay. You thought of something there
7 for a second. What were you --

8 A. I was trying to remember -- I
9 apologize, sir, I'm interrupting you, making it
10 hard for our court reporter.

11 Q. Go ahead.

12 A. Thank you. I was trying to remember
13 if Max had been on the call with Nick Clegg and he
14 was not is my recollection.

15 Q. Any other involvement of Mr. Lesko in
16 communications with social media platforms that you
17 can think of?

18 A. Not to my knowledge, sir.

19 Q. How about Kyla Fullenwilder? We
20 talked earlier that she was communicating, I think,
21 with external researchers, for example Professor
22 DiResta. Was she involved in communicating
23 directly with social media platforms at any stage?

24 A. So Kyla was someone I invited to
25 those rollout calls as a subject matter expert, and

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1 she joined some of them but not all. So I recall
2 that she joined the Twitter call and the Facebook
3 call, but I'm not sure if she joined any of the
4 other ones.

5 Q. Other than those rollout calls with
6 you, what -- did she have any other communications
7 with social media platforms?

8 A. I'm not sure, not to my knowledge. I
9 guess it's possible in the RFI pieces, but I'm
10 not -- I think Max was the one who communicated, so
11 I don't have knowledge of that.

12 Q. Okay. How about other people
13 anywhere on the org chart? I think obviously, you
14 know, that statement directs mis- and
15 disinformation engagement under Anne Kim's job
16 description seems to suggest that somebody's --
17 engagement usually means some form of
18 communication.

19 Is there anyone else that you're
20 aware of who's communicated with social media
21 platforms about mis- and disinformation?

22 A. Not to my knowledge.

23 Q. So the only ones you know of are
24 yourself and Ms. Fullenwider and then Mr. Lesko
25 when it came to announcing the RFI?

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1 A. Again, Daniel may have -- Daniel
2 Tartakovsky may have been invited as an optional to
3 some of those rollout calls with the tech
4 companies. I don't recall if he was on.

5 **Q. How about anyone outside the Surgeon**
6 **General's office, are you aware of other federal**
7 **officials communicating with social media platforms**
8 **about mis- and disinformation?**

9 A. I believe -- I certainly was on some
10 e-mails and at least one call with -- Rob Flaherty
11 would communicate with Facebook.

12 **Q. Did he communicate -- is that Rob**
13 **Flaherty from the White House?**

14 A. That's correct, sir.

15 **Q. Yeah. What's his title and role?**

16 A. I think he -- he is a -- some sort of
17 digital title. I don't know if it's digital
18 director, head of digital, but he has a role on the
19 digital team at the White House, to the best of my
20 knowledge.

21 **Q. Did you communicate with him or**
22 **coordinate with him about talking to social media**
23 **platforms about disinformation and misinformation?**

24 A. I didn't talk to Rob until after we
25 did the rollout, so it wasn't -- it was -- it was

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1 before our call with Nick Clegg, I think I had a
2 call with Rob.

3 Q. What was the nature of that call?

4 A. I think it was just giving us a
5 heads-up on his experiences with -- in
6 communicating with -- with -- with Facebook.

7 Q. So he had been separately
8 communicating with Facebook?

9 A. I believe so.

10 Q. And you were coordinating on how to
11 present a united message to them?

12 A. No.

13 Q. No? What -- what was the nature of
14 the -- the -- the discussion in that call with Rob
15 Flaherty?

16 MS. CHUZI: Objection to the extent
17 that the question is asking for privileged
18 information that's covered by the delivery of
19 process privilege, I will instruct the witness not
20 to answer.

21 THE WITNESS: On the advice of
22 counsel, I will not answer.

23 Q. (BY MR. SAUER) So you're refusing to
24 answer a question about your communications with
25 Rob Flaherty regarding both of your communications

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1 **with Facebook?**

2 A. On the advice of counsel, I will not
3 answer the question.

4 **Q. Was there anyone else involved in**
5 **that call? Without disclosing the content of**
6 **communications, who else was on that call?**

7 A. No one else was on the call.

8 **Q. Did you have any other communications**
9 **with Mr. Flaherty, other than that call?**

10 A. There was one other call that Brian
11 Rice from Facebook requested for me and Brian --
12 for me and Rob to attend. So there was some call,
13 I think around August of 2021, where -- where we --
14 the three of us were on a call together.

15 **Q. What was the nature of that call?**

16 A. Brian had -- Brian Rice from Facebook
17 had requested a call to give us an update on some
18 sort of internal action they were doing. So I
19 think it was him sharing some sort of -- he called
20 it an operation. I don't really recall what it was
21 about, but it was something that Facebook had
22 either found something or removed something and was
23 letting us know about it.

24 **Q. Are you aware of any other federal**
25 **officials communicating with social media platforms**

1 **about misinformation and disinformation other than**
2 **Mr. Flaherty?**

3 A. Other than the folks we've already --
4 other than the people we've already talked about?

5 Q. **Right, yeah, I think I'm talking**
6 **about now outside the Office of the Surgeon**
7 **General.**

8 A. Sorry. Pardon me. Thank you, sir.
9 Thank you for the clarification. Not to my
10 knowledge.

11 Q. **How about Andy Slavitt, do you know**
12 **of any communications with him with social media**
13 **platforms?**

14 A. I know that Dr. Murthy shared with me
15 that Andy had connect -- Andy had connected
16 Dr. Murthy to Nick Clegg because when Andy was
17 leading the White House, he had been a connection
18 for Nick and someone he talked to, and that he
19 promised Nick -- Andy promised Nick that he could
20 have, you know, a person he could talk to, and then
21 looped -- looped Dr. Murthy and -- and Nick.

22 Q. **So Nick Clegg's contacts in the**
23 **federal government to talk about misinformation**
24 **issues prior to that was Andy Slavitt in the White**
25 **House?**

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1 A. I don't know that they spoke of
2 misinformation. I know that they were -- they were
3 certainly in contact.

4 Q. And then when Andy Slavitt left the
5 White House, he kind of offered Surgeon General
6 Murthy as a -- as a direct contact for Nick Clegg?

7 A. That's my understanding, sir, yes.

8 Q. Are you aware of Andy Slavitt having
9 any other communications with social media
10 platforms about mis- or disinformation?

11 A. I am not aware of any communications.

12 Q. How about anyone else in the White
13 House? Are you aware of anyone else in the White
14 House being involved in communications or
15 discussions with social media platforms that relate
16 to misinformation or disinformation?

17 A. I'm not aware of any, sir.

18 Q. How about anyone else in the
19 Department of Health and Human Services?

20 A. I'm not aware, sir.

21 Q. How about anyone else in any other
22 federal agency?

23 A. I'm not aware.

24 Q. Have you ever had communications with
25 anyone at CISA, Cybersecurity and Infrastructure

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1 **Security Agency?**

2 A. I don't think so. I don't recall
3 that.

4 **Q. How about someone called Brian**
5 **Scully, do you know who that is?**

6 A. I do not -- that does not ring a
7 bell, sir.

8 **Q. How about Jen Easterly, does that**
9 **name ring a bell?**

10 A. I don't think so, sir.

11 **Q. How about Lauren Protentis?**

12 A. I don't think so, sir.

13 **Q. How about Dr. Fauci, Anthony Fauci,**
14 **have you had communications or discussions with him**
15 **of any kind?**

16 A. I have not had any communications
17 with Dr. Fauci, sir.

18 **Q. Do you know if he has had discussions**
19 **with other people in the Surgeon General's office**
20 **such as Surgeon General Murthy or others?**

21 A. Dr. Murthy has certainly had
22 conversations with Dr. Fauci.

23 **Q. Do you know what the nature of those**
24 **conversations were?**

25 A. I do not.

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1 Q. Do you know if any of those
2 conversations related to misinformation or
3 disinformation?

4 A. I do not.

5 Q. Do you know of anyone else in the
6 Office of Surgeon General communicating with
7 Dr. Fauci?

8 A. None to my knowledge. Adam Beckman
9 would maybe be someone who might have helped
10 coordinate calls. He was sort of -- did a lot
11 of -- a lot of things, especially as we were
12 lightly -- more lightly staffed at the beginning of
13 the administration, but I think Dr. Murthy would
14 have directly communicated with Dr. Fauci, to my
15 knowledge.

16 Q. And you're not aware of anyone else
17 being on those communications other than Dr. Murthy
18 from the OSG side?

19 A. Yeah, not to any knowledge.

20 Q. Okay. How about Dr. Francis Collins,
21 the head of NIH? Have you ever communicated with
22 him?

23 A. I have not.

24 Q. Are you aware of anyone at the Office
25 of Surgeon General communicating with him?

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1 A. I -- I imagine -- I think -- I'm
2 certain that Dr. Murthy has connected, but I don't
3 know.

4 Q. You say you're certain that
5 Dr. Murthy has connected --

6 A. Sorry.

7 Q. Yeah, go ahead.

8 A. Sorry. It would -- I believe
9 Dr. Murthy has connected with Dr. Collins.

10 Q. Were you involved in those
11 conversations?

12 A. I was not.

13 Q. Do you know if they related to
14 misinformation or disinformation?

15 A. I do not.

16 Q. Did Dr. Fauci or Dr. Collins have any
17 role in devising either the health advisory from
18 July of 2021 or the RFI from March of 2022 that
19 you've already talked about?

20 A. I don't know.

21 Q. And I think you said that
22 Dr. Murthy -- you believe Dr. Murthy has had direct
23 conversations with Dr. Collins. Do you know who
24 else was involved in those communications, if
25 anyone?

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1 A. I do not.

2 Q. So, to your knowledge, the only
3 people that you know who would have been involved
4 would be Dr. Murthy himself and Dr. Collins?

5 A. That's correct.

6 Q. Same question for Dr. Fauci, the only
7 ones you know of who were directly involved in
8 those communications were Dr. Murthy and Dr. Fauci?

9 A. That's correct.

10 MS. CHUZI: Counsel, we've been going
11 for about an hour. Is there -- are we approaching
12 a good stopping point for a short break?

13 MR. SAUER: I was going to do one
14 more exhibit. It's a long exhibit, a longer, so
15 probably be on it for about 15, 20 minutes. Do you
16 want to keep going, or I'm fine taking a break,
17 too.

18 THE WITNESS: Let's -- let's finish
19 this exhibit and then we'll take a break.

20 Q. (BY MR. SAUER) Okay. It's Exhibit
21 3, which I previously e-mailed to your counsel.
22 Can you see the document?

23 A. I have the document in front of me
24 from my counsel, from government counsel.

25 Q. Hang on a second, I'm not showing --

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1 A. But I don't see it on the shared
2 screen.

3 **Q. Here we go. How that's?**

4 A. Yes, sir.

5 **Q. And this is Defendant's**
6 **Second-Amended Combined Objections and Responses to**
7 **Plaintiffs' First Set of Expedited Preliminary**
8 **Injunction-Related Interrogatories. That's what**
9 **it's titled, correct?**

10 A. That is what it says, sir.

11 **Q. Are you aware that the Office of**
12 **Surgeon General responded to interrogatories in**
13 **this case?**

14 A. I know that we had been -- had
15 various legal issues around misinformation and were
16 creating documents for DOJ. I'm not -- I don't
17 know that I specifically knew about this set of
18 interrogatories.

19 **Q. Were you involved in, you know,**
20 **collecting information to respond to**
21 **interrogatories?**

22 A. I believe so. Again, I was
23 responding to requests around the legal matters
24 with respect to misinformation, so probably. I
25 don't -- I know there have been multiple lawsuits

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1 about this, so I'm not sure which one.

2 Q. What -- what was -- what was the
3 nature of -- I don't want to ask anything that your
4 lawyers told you, but I want to know what is the
5 nature of your activities of collecting the, you
6 know, information in response to interrogatories.
7 Did you, you know, dig up documents, search your
8 e-mail? What kind of stuff did you do?

9 A. So, for example -- yes, searching
10 e-mails, searching my calendar for meetings with
11 organizations, et cetera.

12 Q. Anything else? Did you search
13 personal devices and personal e-mails?

14 A. I would have looked at all -- all
15 records that were requested from DOJ. I would have
16 looked at any relevant devices that might have --
17 as part of the request.

18 Q. Have you ever communicated with the
19 social media platform using a sort of personal
20 e-mail account, personal device, anything like
21 that?

22 A. No, sir.

23 Q. And have you ever had work-related
24 communications that related to misinformation or
25 disinformation on a personal account or device?

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1 A. No, sir.

2 Q. Were you aware that we received
3 amended interrogatories on Tuesday of this week
4 that relate to the responses from the Office of
5 Surgeon General?

6 A. I don't think so, but I'm not sure.

7 Q. So are you aware that the responses
8 were provided on September 27th and then amended
9 responses were provided a few days ago.

10 A. I'm not aware of the dates of -- or
11 the responses.

12 Q. I want to direct your attention to
13 page 32 of this document.

14 Is this familiar to you, this OSG
15 response where it says: OSG responds that the
16 following meetings took place with social media
17 platforms relating to misinformation?

18 A. Are you -- is this the whole page?
19 Can you give me a second to read this, sir?

20 Q. Sure, yeah. This response goes on
21 for about two full pages. So if you look at page
22 32 and 33 with a little paragraph spilling onto
23 page 34.

24 A. Okay, sir, I reviewed pages 32 and
25 33.

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1 Q. Gotcha. And you see there's nine
2 bullets points there identifying nine meetings
3 between people from the Office of Surgeon General
4 and social media platforms relating to
5 misinformation?

6 A. I see this, yes.

7 Q. Were you involved in collecting
8 information to identify these meetings?

9 A. I was.

10 Q. And so you searched your calendar,
11 for example, to find information to identify
12 meetings that you were involved in?

13 A. That's correct.

14 Q. Do you know why we received an
15 updated version that added a couple new meetings
16 that hadn't previously been mentioned? Do you know
17 why that happened a couple days ago?

18 A. I do not.

19 Q. Did you find new meetings to disclose
20 to us, you know, recently?

21 A. I did not.

22 Q. Okay. Do you know why these
23 interrogatories were amended to add new information
24 shortly before your deposition?

25 A. I do not.

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1 Q. Let me ask you this: Did you review
2 any documents to prepare for your deposition?

3 A. I did.

4 Q. Yeah, what sort of documents did you
5 review?

6 MS. CHUZI: Objection. Work product.

7 Q. (BY MR. SAUER) What sort of
8 documents did you review to -- to prepare for your
9 deposition?

10 MS. CHUZI: Same objection. The
11 question calls for information covered by the work
12 product doctrine, and I will instruct the witness
13 not to answer.

14 THE WITNESS: On the advice of
15 counsel, I will not answer the question.

16 Q. (BY MR. SAUER) Let me turn your
17 attention to -- here on the top of page 32. Let's
18 just -- I want to walk through these meetings, and
19 just see what you remember about them.

20 So for the first bullet point here
21 identifies a meeting on May 25th, 2021, involving
22 Dr. Murthy and Andy Slavitt meeting remotely with
23 Nick Clegg from Facebook, correct?

24 A. That is what the document says,
25 correct.

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1 Q. And I take it this is before you
2 started at the Office of Surgeon General and you
3 weren't directly involved in this meeting?

4 A. That's correct.

5 Q. But I think you testified about this
6 meeting a minute ago from what your understanding
7 of it was. What do you understand?

8 A. I'm -- I'm --

9 Q. Go ahead.

10 A. Sir, I don't think that's correct.
11 I -- I know that they were connected. I don't know
12 that this was that meeting or if it was an e-mail
13 or something else.

14 Q. Oh, interesting. Okay. Yeah, sorry,
15 I didn't mean to put words in your mouth. Looking
16 at this description of the meeting where it talks
17 about how on May 25th there was a remote meeting
18 between Dr. Murthy, Andy Slavitt, and Nick Clegg,
19 what do you know about what happened in that
20 meeting?

21 A. I don't know anything, sir.

22 Q. Do you know of any meetings --
23 obviously these meetings are listed in
24 chronological order. And the first meeting listed
25 between OSG personnel and social media platforms is

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1 on May 25th, 2021, correct?

2 A. That is what is listed, sir, yes.

3 Q. Are you aware of any meetings that
4 happened before May 25th, 2021, between anyone in
5 the Office of Surgeon General and anyone at a
6 social media platform?

7 A. I think this is what we talked about
8 before, sir. I think there may have been a meeting
9 during the transition. That's only meeting I'm
10 aware of.

11 Q. And that was that meeting you talked
12 about involving Dr. Murthy and someone on the data
13 side at Facebook?

14 A. That's correct.

15 Q. Do you know who that was? Do you
16 know the name of that Facebook individual in that
17 meeting?

18 A. I don't recall, sir.

19 Q. Do you know if anyone else was in
20 that meeting, other than Dr. Murthy and the person
21 from Facebook?

22 A. I don't recall -- or I actually don't
23 know.

24 Q. Do you know if any -- well, let me
25 ask you this: Do you know if the data being

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1 discussed was data about misinformation on -- on
2 Facebook?

3 A. I believe that was a topic of
4 conversation.

5 Q. Do you know of any other topics of
6 conversation?

7 A. I do not.

8 Q. Do you know what was said about the
9 data of misinformation -- data about misinformation
10 on Facebook?

11 A. I think the only piece I know from
12 that conversation was, again, Facebook sort of
13 being un- -- you know, not clear, or unable to
14 present the -- the depth or reach of the
15 misinformation, that they didn't have that data.

16 Q. And so Facebook told Dr. Murthy in
17 the transition, on your understanding, that they
18 didn't really have good data on the depth and reach
19 of misinformation on their platform?

20 A. I believe so.

21 Q. And Dr. Murthy, do you know what he
22 said about that?

23 A. I don't know.

24 Q. Who was on that call, other than that
25 unidentified Facebook person and Dr. Murthy, to

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1 **your knowledge?**

2 A. I don't know.

3 **Q. So you don't know of anyone other**
4 **than Dr. Murthy who would be able to identify what**
5 **was stated in that call?**

6 A. I don't know. It's possible DJ Patil
7 would have been on that call. I think he was on
8 the transition as well, but I'm not positive.

9 **Q. Who's DJ Patil?**

10 A. DJ was that chief data scientist in
11 the Obama administration, and he was a special
12 government employee at the White House for part of
13 the first year.

14 **Q. What -- what time range -- frame?**

15 A. I think the first six months or so.

16 **Q. So he was a White House official for**
17 **about six months in some capacity?**

18 A. That's my understanding.

19 **Q. Yeah, do you know exactly what his**
20 **role was?**

21 A. I do not.

22 **Q. Do you know if he communicated with**
23 **social media platforms about misinformation?**

24 A. DJ was on the call with Dr. Murthy
25 and myself with Nick Clegg.

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1 Q. Okay. And so he was joining that
2 call in his capacity as a White House official?

3 A. That's my understanding.

4 Q. Okay. And then you think he may have
5 been involved in this call in the transition
6 involving Dr. Murthy and the data person at
7 Facebook?

8 A. Maybe. I'm not certain, sir.

9 Q. How about any other communications
10 involving DJ Patil and social media platforms, are
11 you aware of any others?

12 A. There was a follow-up e-mail from
13 Nick after our call, and I connected DJ to another
14 research data person on -- on the -- I think I was
15 doing a matchmaking of DJ and a Facebook data
16 person. I'm not certain if they ever connected.

17 Q. Who was that Facebook data person?

18 A. I don't recall the name, sir.

19 Q. How did you know who to connect him
20 to?

21 A. I think either Nick or Brian Rice
22 gave us the person to connect them with.

23 Q. What was the purpose of connecting DJ
24 Patil, the White House scientist, with the Facebook
25 data person?

1 A. I think to better understand the --
2 the nature of the data reach on the misinformation.

3 **Q. So the idea was -- go ahead, sorry.**

4 A. I think, again, the problem was we
5 were still in this piece of not understanding the
6 reach and depth of the -- of the -- of the reach of
7 the misinformation on the -- on Facebook. And I
8 think this person was going to try to explain to DJ
9 the data challenges in doing so.

10 **Q. So the idea was that DJ, the White**
11 **House scientist, would be able to talk to the data**
12 **person at Facebook so that the White House could**
13 **understand the reach and depth of misinformation on**
14 **Facebook?**

15 A. I'm not certain, but I think that
16 was -- that was one of the pieces.

17 **Q. Are you aware of any other pieces?**

18 A. I am not.

19 **Q. Do you know if DJ, you know, proposed**
20 **action items to them about sharing data or any**
21 **other action items relating to misinformation?**

22 A. I'm not aware of any.

23 **Q. Do you know of any -- anyone else in**
24 **the federal government proposing action items to**
25 **social media platforms about controlling**

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1 **misinformation on their platforms?**

2 A. I think certainly Jen Psaki made
3 statements during the press conference on the
4 release date that could be -- that I think would
5 answer -- would be within what you're describing.

6 Q. And she was the White House press
7 secretary at the time?

8 A. That's correct.

9 Q. Anyone else other than Ms. Psaki?

10 A. To my knowledge?

11 Q. I'm sorry, did you say not to your
12 knowledge or?

13 A. Not to my knowledge, sir, yeah.

14 Q. Let me direct your attention back to
15 this document. We talked about this May 25th
16 meeting. And do you know -- you said this may or
17 may not have been the interaction you testified
18 about earlier where Nick Clegg was connected to
19 Dr. Murthy. Do you know what was discussed in this
20 call, other than introducing them to each other?

21 A. I do not.

22 Q. So it mentions here in the
23 interrogatory response that the purpose of the call
24 was to introduce Dr. Murthy to Mr. Clegg, and it
25 goes on to say: Misinformation may have been

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1 discussed.

2 Do you know whether misinformation
3 was discussed in any connection?

4 A. I do not.

5 Q. Do you know why the interrogatory
6 responses say that it may have been discussed?

7 A. I don't know why, other than the
8 prima facie because it's possible it could have
9 happened.

10 Q. Okay. On July 12th, the next meeting
11 listed, there's a meeting listed between you and
12 Lauren Culbertson and Todd O'Boyle from Twitter,
13 and it mentions that Kyla Fullenwilder from US
14 Digital Response was invited and may have attended,
15 correct?

16 A. That's correct.

17 Q. And this is the same Ms. Fullenwilder
18 that you talked about earlier who had a role in --
19 some kind of role on behalf of the Surgeon
20 General's office, right?

21 A. That's correct.

22 Q. And it lists her as from US Digital
23 Response. Do you know what US Digital Response is?

24 A. I think it's some sort of
25 quasi-governmental organization that helps -- helps

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1 do -- helps government do digital and data better.

2 Q. Is it -- is it, like, a private
3 organization that contracts with the federal
4 government, or is it a -- you know, is it a federal
5 government agency?

6 A. I'm not positive, sir. I don't know
7 the nature of USDR. I think they have .gov e-mail
8 addresses is what I do know.

9 Q. And it says here that the meeting
10 provided notice of the upcoming OSG advisory. I
11 take it that's the health misinformation advisory
12 that was launched three days later, correct?

13 A. Yes, sir. This refers to the meeting
14 you and I have discussed already about the rollout
15 calls, the prerollout calls, yep.

16 Q. Okay. It says: A high-level view of
17 what issues the OSG would be prioritizing in the
18 advisory. Did you give them that -- that
19 high-level view?

20 A. I believe Kyla would have walked them
21 through the high-level view. So, again, my role as
22 part of the -- for the rollout was to, essentially,
23 reach out to those groups to establish that
24 relationship and then connect them to our subject
25 matter expert to be able to stay at a high level,

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1 this is what's happening.

2 Again, because it was a rollout, we
3 couldn't share the document, it was embargoed, but
4 we could say at a high level, we're going to be
5 calling for these things, and we encourage you to
6 take a look when it comes out.

7 **Q. And did Kyla give that high-level**
8 **view?**

9 A. It says she was invited and may have
10 also attended. I can't recall. If she did attend,
11 she would have done so. Otherwise, I would have
12 provided a very general overview.

13 **Q. Okay. When you say here that things**
14 **we're calling for, what sort of things do you tell**
15 **them in this rollout call?**

16 A. I think it -- sorry, go ahead, sir.

17 **Q. Go ahead. Describe what was said.**

18 A. It would have been a high-level
19 overview to say next week, you'll hear the Surgeon
20 General talking about health misinformation, this
21 is your first advisory. We're calling for an
22 all-society approach, and certainly there are
23 things we think that everyone can do to, you know,
24 given that we're in a -- a pandemic, that there's
25 more that everyone can do, and so we're happy to

1 take a look at that, and we'd love your feedback,
2 you know, once you've had a chance to review it,
3 and that we'll share it with you when it comes out.

4 **Q. And did you specifically mention that**
5 **the Surgeon General would be saying there's more**
6 **that the social media platforms can do?**

7 A. I don't recall if that was
8 specifically mentioned. I think we said we're
9 calling for an all-of-society approach and asking
10 everybody to do more.

11 **Q. The next meeting listed here on**
12 **July 14th from 3:00 to 5:00 p.m., it's a meeting**
13 **between yourself and Kevin Kane and Jan Antonaros**
14 **and Ariel Altman from Google/YouTube, correct?**

15 A. That's correct.

16 **Q. And that's the same description as**
17 **the rollout meeting from July 12th with Twitter,**
18 **correct?**

19 A. Yeah. So, again, this is the same --
20 precisely the same type of call. It's a prerollout
21 call to give a stakeholder a heads-up and give them
22 a high-level overview, recognizing that the -- the
23 advisory's embargoed. So almost the exact -- the
24 goal was the same for those calls.

25 **Q. And would you have -- I take it**

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1 **you're the only one on the government side of this**
2 **meeting, correct?**

3 A. Yeah, if that's what's reported, then
4 neither Daniel nor Kyla were able to join those
5 calls, or that call, sir.

6 Q. **What did you say -- sorry, go ahead.**
7 **What did you say in that call?**

8 A. I would have said the similar thing
9 to what I said on the previous call, next week or
10 in a few days we're having -- in two days, we're
11 going to announce an advisory, it's embargoed, I
12 can't share the details, but a high level, we're
13 calling to an all-society approach, we're asking
14 everybody to do more, given that we're in a
15 pandemic, and we know this issue is of great
16 importance, and we hope you'll take a look, I'll
17 share this with you and would love -- love to hear
18 from you after it comes out, if you think there's
19 ways we can collaborate.

20 Q. **Okay. And did you -- did they say**
21 **anything in response to that, either in the Twitter**
22 **call or the YouTube/Google call?**

23 A. I think -- again, these were -- they
24 sort of gave the -- what I would call an overall,
25 like we agree -- you know, we agree this is

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1 important, or we are working on this and we're
2 excited to take a look at the advisory.

3 Q. Okay. Anything beyond that in either
4 of these two calls?

5 A. Not to my recollection.

6 Q. If you go down to the next line on
7 July 16th, 2021, there's a meeting between you and
8 Kyla Fullenwilder with Payton Iheme and Justine
9 Isola from Facebook. And it mentions that Kate
10 Thornton and Brian Rice from Facebook may also have
11 attended, correct?

12 A. That is correct.

13 Q. Yeah. And it says: The meeting
14 discussed the newly issued OSG advisory, correct?

15 A. Correct. So we are -- tried to
16 schedule this meeting before the release, but
17 Facebook was unable to book it, so it ended up
18 happening after the release. So this was intended
19 as a prerelease call, just like the others.

20 Q. Gotcha. So this was supposed to be a
21 rollout call, but it ended up being scheduled a day
22 after the release?

23 A. I think it may be the same -- is it
24 the same day? It was the same day as certainly
25 President Biden's, I think, statement, but yeah, it

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1 was a day or two -- yeah, the next day, I think.

2 Q. Gotcha. And what was the -- I take
3 it the discussion in this call was different --
4 it's described differently than the two previous
5 meetings, correct?

6 A. That's correct.

7 Q. Yeah, what was said in this call? It
8 says: The meeting discussed the newly issued OSG
9 advisory. Can you be more specific and describe
10 what was discussed in this call?

11 A. Yeah. So again, the advisory now is
12 out, so we didn't have to be coy about whether the
13 advisory -- what it said or didn't say. So I was
14 able -- at the call, Kyla was able, at a high
15 level, to walk over the -- the recommendations
16 section for -- for technology companies.

17 Q. So she -- you basically -- you guys
18 talked first and gave an overview of the health
19 advisory as it related to the recommendations on
20 the social media platforms?

21 A. I believe so. I don't recall, but
22 that sounds right.

23 Q. And you say that was done by Kyla, to
24 your knowledge, not you?

25 A. Correct.

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1 Q. Do you remember -- and I take it her
2 presentation or her discussion focused on the kind
3 of recommendations and the advisory of what social
4 media platforms could do to combat the spread of
5 disinformation and misinformation on their
6 platforms?

7 A. I believe so. I don't really recall.

8 Q. Do you remember anything specific
9 that she said in that -- that presentation?

10 A. I do not.

11 Q. Did you talk in the call?

12 A. I would have helped emcee the call,
13 introduced parties, you know, helped sort of guide
14 and steer the call a little bit, but it would have
15 been turning over the mic to the subject matter
16 expert.

17 Q. And that subject matter expert was
18 Kyla?

19 A. Correct.

20 Q. Then social media platforms say, I
21 take it -- not the social media platforms, the
22 Facebook people, did they say anything on this
23 call?

24 A. I don't really remember. It was
25 definitely a slightly awkward call because I think

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1 either some -- you know, during the call, I'd have
2 to look at the time signature, but I think
3 President Biden made his comment about social media
4 companies and Facebook killing people, you know,
5 right before, or even potentially during the call,
6 but the Facebook team looked a little sad.

7 **Q. Did they say anything about that**
8 **comment in the call?**

9 A. Not to my recollection.

10 **Q. You said they looked sad. Was this a**
11 **Zoom call?**

12 A. It was, sir.

13 **Q. Do you remember them giving any**
14 **reaction at all to Kyla's presentation about, you**
15 **know, the proposed action items for social media**
16 **platforms?**

17 A. I don't recall.

18 **Q. Do you remember who spoke on the**
19 **Facebook side and during this Zoom call?**

20 A. I know Payton spoke, but I don't
21 recall -- I don't recall who else spoke.

22 **Q. What did Payton say, to your**
23 **recollection?**

24 A. I don't actually recall.

25 **Q. You know she spoke, but you don't**

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1 **remember anything she said?**

2 A. That's correct.

3 Q. And you remember them looking sad,
4 **correct?**

5 A. That was my interpretation of their
6 facial expressions.

7 Q. Did they say anything that would
8 **reinforce their being sad or upset about the recent**
9 **public statements?**

10 A. They did not.

11 Q. Let's move down one more bullet point
12 **to July 23rd, 2021. There's a call between**
13 **Dr. Murthy, yourself, and DJ Patil, correct?**

14 A. That's correct.

15 Q. And this is a call with Nick Clegg,
16 **and it says very likely Brian Rice from Facebook,**
17 **correct?**

18 A. That's correct.

19 Q. This would have been about one week
20 **after that July 16th rollout call that we just**
21 **talked about, right?**

22 A. That's correct.

23 Q. How did this call get set up?

24 A. Nick e-mailed Dr. Murthy directly. I
25 think either -- it must have been --- it was after

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1 President Biden made his remarks, because he
2 referenced the remarks, and he wanted to -- he
3 asked if they could have a call, and I think he
4 wanted to -- to -- to deescalate.

5 **Q. And did he use the phrase deescalate**
6 **in this call?**

7 A. I -- I don't recall. I think
8 there's -- I think his e-mail maybe said something
9 about, like, wanted to reset the tone.
10 Something -- it was recognizing the -- the -- the
11 feelings, potentially, that -- that the Facebook
12 team were feeling, and feeling like they were --
13 that they had been uniquely called out.

14 **Q. And so Nick Clegg is -- did -- he's**
15 **the one who kind of initiated the discussion in**
16 **this call, kind of the --**

17 A. That's correct. He e-mailed
18 Dr. Murthy directly and I believe asked for time.

19 **Q. And then in the call, did he express**
20 **that the Facebook team was upset about Facebook**
21 **being uniquely called out?**

22 A. I don't remember. He definitely said
23 something like that in the e-mail, but I don't
24 recall him saying that during the call.

25 **Q. What do you remember him saying in**

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1 **the call?**

2 A. I think it was just in general a, you
3 know, wanting to restart the tone and feeling --
4 you know, seeing -- I think also feeling that they
5 actually were doing a lot to address this issue and
6 sort of a "you don't understand all the good work
7 we're doing" and that -- sort of, you know, a
8 little unfair that they had been called out.

9 **Q. And was the good work they were**
10 **doing, did that include taking steps to slow or**
11 **reduce the spread of misinformation on Facebook**
12 **platforms?**

13 A. I know that -- that Nick did share
14 definitely over e-mail more information about what
15 they were doing to reduce mis- and disinformation,
16 COVID mis- and disinformation on -- on the
17 platform, yes.

18 **Q. How about in the call, did he discuss**
19 **that on the call?**

20 A. I don't recall.

21 **Q. Did that include new steps that they**
22 **were taking, you know, since they'd been uniquely**
23 **called out by the President and -- and at the -- at**
24 **the July 15th press conference?**

25 A. Not -- I don't recall, sir.

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1 Q. Do you know -- in other words, do you
2 know if Mr. Clegg identified anything new they were
3 doing that they hadn't already been doing prior to
4 July 15th or July 16th?

5 A. I don't recall that from the call.

6 Q. Okay. How about from the e-mails?

7 A. I think there was a follow-up e-mail
8 sometime the next couple of weeks where -- where
9 Nick, I believe, or Nick or Brian shared here's --
10 here's additional work we're doing, here's how
11 we're responding to the advisory.

12 Q. And did that additional work
13 responding to the advisory include taking more
14 proactive steps to remove misinformation from their
15 platforms?

16 A. I think it was a catalog of -- of --
17 of removal and other steps to -- to tamp down mis-
18 and disinformation on the platform, yes.

19 Q. So it included both removal of
20 misinformation and other steps to tamp down mis-
21 and disinformation, correct?

22 A. I believe -- I believe so.

23 Q. And those were new steps that they
24 had taken in the week or so since the -- the --
25 they felt uniquely called out on July 15th and

1 **16th?**

2 A. I'm not sure. I believe that's the
3 case. I think the -- the e-mail was asking, was
4 that -- there was an e-mail thread after the call
5 asking for, can you let us know, like, what you're
6 doing in addition, and so this was responding to
7 that. So I've have to go look at the e-mail code
8 to be certain.

9 **Q. Gotcha. Did anyone else talk on this**
10 **call other than Nick Clegg?**

11 A. Dr. Murthy spoke, I -- I spoke a
12 little bit, I think DJ Patil a little bit as well.

13 **Q. How about Brian Rice or anyone else**
14 **on the Facebook side?**

15 A. Not to my recollection.

16 **Q. You said Dr. Murthy spoke. What did**
17 **he say?**

18 A. I don't recall exhaustively, but
19 again, I think Dr. Murthy raised the issue of
20 wanting to have a better understanding of the reach
21 of the mis- and disinformation on -- on the social
22 media platform.

23 **Q. And what's the purpose of wanting to**
24 **know more about the reach of mis- and**
25 **disinformation?**

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1 A. I think, again, as a Surgeon General,
2 he's trying to understand not just the harm
3 direction but the harm magnitude, right? So,
4 again, you might say, all right, two things can be
5 bad for you, eating a cookie or eating, like, a
6 piece of uranium. One has a different magnitude.
7 Both are bad. And you'd want to know if one's
8 really, really bad.

9 And so in this case, you know, from a
10 research perspective, if we're identifying mis- and
11 disinformation as a social harm or health harm,
12 you'd want to know not just will it hurt, but how
13 much does it hurt or how prevalent is it? You
14 know, is it a small tumor that we just need to
15 excise, is it something little, or is it -- is it
16 metastases, is it everywhere?

17 **Q. And your cancer example, I think,**
18 **prefaces my next question: I take it the purpose**
19 **of understanding the reach is to allow the Surgeon**
20 **General to use his bully pulpit, as you talked**
21 **about earlier, or you know, persuasive power to**
22 **push for change, if it's an extensive problem,**
23 **correct?**

24 A. Possibly. I guess I would say, in
25 general, the purpose of having that knowledge, and

1 again, we talked about the research piece as well
2 earlier in the conversation, sir, is so that if we
3 could have a broader understanding of the nature of
4 the harm, there can be a deeper understanding of
5 the different methods to ameliorate that harm.

6 So again, I'm making up a person. If
7 there's a head of research at NYU who does this,
8 who has access to that data and studies it, they
9 might say, actually, if we just do -- tweak the
10 algorithm like this, we'll reduce harm by X
11 percent, and whatever better health outcomes will
12 occur, or we can do Z.

13 By having more information, we can
14 increase research, which then can help us craft
15 different outcomes. So again, to continue with our
16 cancer analogy, cancer was a death sentence
17 40 years ago. Now we might say, you know what, you
18 actually just get a little radiation treatment, you
19 take a pill and it's fine, and you're fine. And so
20 how -- we need to understand the problem in order
21 to understand how to best create ameliorative
22 policy proposals.

23 Q. Gotcha.

24 A. And then that could come from within
25 government or outside of government. I think,

1 again, the -- the advisory calls for an
2 all-of-society approach.

3 Q. Okay. So on your cancer analogy
4 here, the cancer is disinformation and
5 misinformation on social media platforms, correct?

6 A. That is -- that is -- that is the
7 potential health harm, yes, that we are trying to
8 ameliorate.

9 Q. And I take it the purpose of getting
10 more data from the social media platforms would be
11 able to allow either government or outside academic
12 researchers to devise solutions that would limit
13 the spread of disinformation and misinformation,
14 correct?

15 A. Limit the harm or spread. I mean,
16 again, you might say spread -- you might learn, we
17 don't know, this is why you need research. We
18 don't know -- you know, maybe actually there isn't
19 as much harm as we think, maybe the spread is
20 actually not the problem. You'd need to understand
21 it and figure out how you're -- I think,
22 ultimately, you're right, limiting the harm. I
23 don't know if spread actually is harmful.

24 Q. But certainly the health advisory
25 seems to think that spread is very harmful?

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1 A. Sure. I think, again, absent the --
2 absent additional data, the sort of -- that is the
3 view.

4 Q. Yeah, and that is the view
5 specifically of the Surgeon General's office as
6 expressed in the health advisory, correct?

7 A. I think that's a fair reading.

8 Q. Yeah. And I take it the idea of
9 calling for more data and more transparency from
10 the social media platforms is to allow people
11 outside the social media platforms to devise
12 solutions that would limit that harm, which the
13 Surgeon General believes to be linked to the spread
14 of misinformation and disinformation on social
15 media platforms, right?

16 A. I think limit the harm. Also, again,
17 additional solutions, you know, could be also,
18 like, how do we better spread the cure -- you know,
19 the right information, which again could be one of
20 the policy prescriptions, right? You may discover,
21 actually, what's most important is that here's the
22 information that we're -- the right information,
23 how we spread it more quickly.

24 Again, there could be multiple policy
25 proposals from academia, from nonprofits, from

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1 advocates, but yes, to understand it, you know, we
2 do think it would be -- seems more beneficial to
3 have external validation and multiple eyes.

4 Q. And you mentioned that someone like
5 at NYU might be able to devise an algorithm tweak
6 that might really limit the spread or might, as you
7 said, promote accurate information as well,
8 correct?

9 A. That's just me making up policy
10 solutions, but yes, that's -- that's a possible
11 outcome of greater access to data and research.

12 Q. And that would allow the Surgeon
13 General's office in turn to advocate for those
14 kinds of policy changes to be adopted by the social
15 media platforms?

16 A. I think that would be a reasonable
17 outcome to say we're going to look at
18 evidence-based policy proposals, and if we see ones
19 that make sense, I certainly think the Surgeon
20 General's office would think, hey, this is a smart
21 policy proposal, and it would be within the -- the
22 gamut to recommend it.

23 Q. Yeah, recommend it, both,
24 publicly through the bully pulpit and privately in,
25 you know, engagement directly with the social media

1 **platforms?**

2 A. It's possible. That's certainly
3 within the -- the realm of possibility.

4 Q. And something very like that is
5 **actually what happened in the health advisory,**
6 **right? I mean, there's several -- as I recall,**
7 **several recommendations for the social media**
8 **platforms, maybe not even quite as specific as your**
9 **NYU hypothetical, but several recommendations of**
10 **here's what, you know, we want you to step up and**
11 **do more of when it comes to the spread of**
12 **disinformation, correct?**

13 A. I think the -- the recommendations
14 are examples of what could be -- are examples of
15 what parties could -- could do. And yes, it
16 provides specific examples to technology companies
17 what they could do more of to reduce the spread of
18 health mis- and disinformation.

19 Q. And on your analogies, that's -- the
20 **spread of health mis- and disinformation is what**
21 **you analogized to eating uranium and having cancer**
22 **in your earlier hypotheticals, correct?**

23 A. Well, I said it's -- you don't know
24 if it's eating the cookie that's going to cause the
25 -- I don't remember what my first -- like, you need

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1 more data to understand whether it's just the
2 cookie that may cause cancer one day with too much
3 sugar or if it's uranium. You want to know the
4 size and the scope of the poison.

5 Q. Gotcha. And poison is not your word,
6 right? That's the word that Surgeon General Murthy
7 has used in describing misinformation and
8 disinformation on social media platforms, correct?

9 MS. CHUZI: Objection. Assumes facts
10 not in evidence.

11 Q. (BY MR. SAUER) To your knowledge?

12 A. I can't recall if he used the word
13 "poison." That may have occurred, but I don't
14 recall.

15 Q. Do you remember it appearing in the
16 health advisory we've been talking about as a verb?

17 A. It seems possible that that occurred,
18 yeah.

19 (A discussion was held off the
20 record.)

21 THE VIDEOGRAPHER: The time is
22 9:51 a.m, Central Standard Time. We are off the
23 record.

24 (A short break was taken.)

25 THE VIDEOGRAPHER: The time is 10:05

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1 a.m. Central Standard Time. We are back on the
2 record.

3 Q. (BY MR. SAUER) Mr. Waldo, I believe
4 before the break, we were talking about this
5 July 23rd meeting between yourself and Dr. Murthy,
6 DJ Patil, and Nick Clegg of Facebook, correct?

7 A. That sounds correct.

8 Q. I'm putting that Exhibit 3 back on
9 the screen share. Can you see it?

10 A. I can see it, sir, yes.

11 Q. Okay. I think you mentioned that
12 Mr. Clegg is -- described what he had been saying
13 in that call. Who else talked in that call?

14 A. I believe I said that Dr. Murthy
15 spoke, Nick spoke, I spoke, and DJ spoke.

16 Q. Okay. And I think you said that --
17 something about -- about -- data about the reach of
18 misinformation on the platforms, correct?

19 A. That's correct.

20 Q. Yeah. Did he talk about anything
21 else in that call?

22 A. I do recall that in general he opened
23 the call sort of saying how hard he knows it must
24 have been and that everyone is working hard and
25 trying to sort of empathize and I think sort of

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1 create a -- more of a -- a more cordial atmosphere,
2 given that people's sort of feelings were hurt.

3 Q. Uh-huh. And people being Facebook's
4 in particular. Is that fair to say?

5 A. Correct.

6 Q. Yeah. Anything else besides setting
7 a cordial tone and inquiring about data on the
8 reach of misinformation?

9 A. I don't recall specifically, but I
10 think the notion was that Dr. Murthy would continue
11 to sort of say we're in a -- you know, we're
12 calling on everybody. This is a unique time in our
13 history. It's a pandemic. We're asking everyone
14 to do more. And so, you know, that was -- that's
15 what the advisory said, so I think -- I believe we
16 emphasized that again.

17 Q. So in other words, you emphasized the
18 message that they're calling on everyone to do
19 more, and that includes Facebook, right?

20 A. Yes.

21 Q. So you all didn't retreat, so to
22 speak, from the message of the advisory, which
23 explicitly calls for social media platforms to do
24 more to control the reach of misinformation on
25 their platforms, correct?

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1 A. That's correct.

2 Q. And, in fact, I think you just said
3 you just emphasized that message to them, right?

4 A. I think we -- we continued to stay --
5 to -- to -- to discuss that message.

6 Q. Yeah. And let me ask you this. You
7 said you spoke on the call. What did you say?

8 A. I don't really remember. I think I
9 probably would have just been staying on general
10 talking points of, you know, introducing the call,
11 getting folks together, making sure we were on
12 time, and also thinking about follow-up of how we
13 were going to communicate.

14 Q. What do you mean by thinking about
15 follow-up?

16 A. I think just whether or not we were
17 going to have another call, whether or not we
18 wanted to ask, you know -- whether or not we were
19 going to ask Facebook to -- to -- to share more
20 with us, just sort of what -- what would -- the
21 next steps might be.

22 Q. Were those next steps discussed in
23 the call?

24 A. I think on the call one of the
25 conversations was to say -- was whether or not

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1 Facebook would share what they -- again, I think we
2 already talked about this, sir, but whether or not
3 they would share what they were doing in response
4 to the advisory, if they were taking any actions.

5 Q. Gotcha. So that was specifically
6 asked by people on your side of the call will they
7 share what they're doing --

8 A. I -- I -- I believe so.

9 Q. Okay. Who -- was that you or was
10 that Dr. Murthy?

11 A. I don't recall.

12 Q. Okay. But somebody on the Surgeon
13 General's side made a specific ask for them to
14 share what they would do in response to the
15 advisory; is that correct?

16 A. I think it's what, if anything, if
17 they -- if they would share, yeah.

18 Q. Yeah. And did they indicate they
19 would share?

20 A. I don't recall.

21 Q. I think you said DJ Patil talked on
22 the call; is that right?

23 A. Yeah. I think DJ, I think, probably
24 was also asking the data impact questions, just
25 with some more specificity given his -- his -- his

1 subject knowledge.

2 Q. He's the subject matter expert on
3 data relating to social media information?

4 A. He's subject matter expert related to
5 data overall. He was the chief data scientist in
6 the Obama administration.

7 Q. And then he had some sort of similar
8 role in the Biden White House at this time?

9 A. I don't know what his title was.

10 Q. Do you know what his duties were for
11 the White House at that time?

12 A. I do not.

13 Q. Okay. But it related to data in some
14 way, him being a data scientist?

15 A. I actually don't know he was -- that
16 makes the most sense, given that that's his deep
17 area of expertise. But, yeah, I think he was
18 advising the Office of Science and Technology
19 policy and maybe helping them in the first -- first
20 part of the year.

21 Q. What did he say about data on
22 Facebook's misinformation in this call? Do you
23 remember?

24 A. I don't recall.

25 Q. You believe he said something more

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1 **specific about the kind of data they want. Do you**
2 **remember what kind of data he was interested in**
3 **getting from Facebook?**

4 A. I think, again, the issue was sort of
5 a question of Facebook had been sharing I think --
6 again, I'm sort of paraphrasing, but something
7 people talk about that Facebook was sharing the
8 nominator, like, hey, we know this -- this -- this
9 amount of people are seeing X but not the
10 denominator of -- you know, out of a universe of
11 what. So I think he was inquiring more about that
12 denominator question.

13 Q. Okay. So he was asking, you know --
14 **I gotcha. He was asking for information about what**
15 **is the total reach of information compared to the**
16 **reach of disinformation?**

17 A. That's correct. I -- I think that's
18 correct. I think that was the nature of the
19 question, which I know -- I think he just
20 understood it in greater specificity than someone
21 like myself or Dr. Murthy.

22 Q. Did Facebook say anything in response
23 **to that? Did they indicate willingness to share**
24 **more information?**

25 A. I don't recall. I think the -- I

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1 think the offer made, which either was on the call
2 or in the subsequent e-mail, was about connecting
3 DJ to a data person, which I know we already
4 discussed.

5 Q. Okay. And that actually happened, I
6 believe. I think you said that DJ was connected to
7 a Facebook data person.

8 A. There was definitely a loop made over
9 e-mail. I don't know whether or not they
10 connected.

11 Q. Okay. How did this call end? You
12 know, what were the last things that were said in
13 the call?

14 A. I -- I -- I mean, it was obviously
15 some sort of good-bye salutations of, you know,
16 thank you and let's -- I think -- I do recall that,
17 yeah, I think Nick talked about wanting to -- to
18 get together again, but it was a -- I think it was
19 a cordial ending of the call.

20 Q. Did he indicate that -- and were
21 people -- did people leave with like proposed
22 action items or, you know, tasks?

23 A. Not to my recollection.

24 Q. Was there a follow-up call? You
25 mentioned Nick wanting to get together again. Was

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1 **there a follow-up call between anyone in the**
2 **Surgeon General's office and Mr. Clegg?**

3 A. Not to my recollection. I think he
4 asked for another call, but I don't think that we
5 ended up doing one. I think the determination was
6 made that we didn't think it would be a good use of
7 Dr. Murthy's time.

8 **Q. Okay. Why not? Did not expect**
9 **cooperation from Facebook?**

10 A. No. I think that we just didn't
11 think that they -- we thought that it was just more
12 of a PR stunt for them to meet with us to sort of
13 keep Dr. Murthy from saying other -- you know, any
14 other things that might be viewed as bad for their
15 business.

16 **Q. Gotcha. So you didn't think they**
17 **were doing enough of real changes to address the**
18 **concerns in the health advisory?**

19 A. No. I think we just didn't think
20 that it would be a fruitful use of our time. I
21 think there were two things. Number one is I think
22 there was the recognition -- I'm trying to slow
23 down for our court reporter.

24 Number one, I think there was a
25 recognition that we didn't think that there was

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1 much change that they were going to make in
2 response to the -- the -- the advisory, however
3 much they were going to do. And number -- and we
4 didn't think they were going to be transparent with
5 us about that.

6 And then number two is I think we had
7 done the work that we intended vis-a-vis the
8 advisory, which is the Surgeon General's role, to
9 raise up the issue, bring attention to it, and then
10 -- and then we wanted to move on to other
11 priorities and that, you know, our part of the
12 relay race was over.

13 We had -- we had raised up the
14 flagpole that this is an issue of public importance
15 and that hopefully researchers, nonprofits,
16 citizens, whomever, relative stakeholders would
17 take actions. But we weren't -- we're not a
18 regulatory agency. We don't have oversight
19 authority, et cetera.

20 So it wasn't our job then to sort of
21 show up with a clipboard, but rather we were trying
22 to encourage the field to move forward and give
23 permission structure where others might recognize
24 that this is important and want to study it more,
25 want to do more work in this area. But the --

1 Dr. Murthy wanted to focus on other core issues,
2 and we made a deliberate decision at -- I believe
3 in August as a senior team that we didn't think
4 that misinformation was going to be one of our
5 priority areas going into the rest of the year.

6 **Q. So you made a powerful statement on**
7 **misinformation in July, but you decided that the**
8 **rest of the year you'd focus on other issues?**

9 A. I think we decided that we would
10 still talk about it from a -- from a press or
11 communications perspective, but that from a
12 staffing perspective of where we would be spending,
13 you know, it takes a lot of energy and work to do
14 some of the pieces that we would be working on
15 developing our additional advisories and not -- not
16 doing -- you know, from a budget perspective of
17 time, we didn't want the health misinformation work
18 to take up more than 10 percent of our time.

19 **Q. Gotcha. Do you -- do you know why**
20 **there was such a focus on Facebook in this July**
21 **time frame as opposed to other social media**
22 **platforms like Twitter and YouTube?**

23 A. I think it was in some ways just
24 random luck or bad luck, depending on your
25 perspective. I think that because it was raised at

1 the press conference, it got additional attention.

2 And so I think when you add the press
3 conference remarks plus President Biden's remarks,
4 it made it seem as though there were -- there was
5 more attention on Facebook. But certainly that's
6 not what the advisory -- the advisory didn't call
7 out individual organizations. We certainly hadn't
8 had a plan beforehand to -- to call out Facebook
9 specifically.

10 **Q. Was there a sense in the Office of**
11 **Surgeon General that the problem of misinformation**
12 **was particularly acute on Facebook as compared to**
13 **other platforms?**

14 A. I don't think so. I think there was
15 a view among the subject matter experts that it was
16 a problem across multiple platforms.

17 **Q. So they -- the subject matter experts**
18 **are people like Kyla and DJ Patil?**

19 A. And Daniel as well. But I think
20 certainly in my conversations with Kyla, I don't
21 think -- we hadn't done a ranking of who were the
22 worst social media companies in terms of
23 misinformation. There was a view that all -- you
24 know, different -- different companies, you know,
25 certainly had different strengths and weaknesses.

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1 And all of them had -- you know, had an opportunity
2 to improve how they were handling this issue. And
3 our job was to raise this as an issue so folks
4 could know about it and hopefully take steps to --
5 to ameliorate the situation.

6 Q. Yeah. And that -- those taking steps
7 to ameliorate would include social media platforms,
8 correct?

9 A. Correct. But I would again
10 highlight, you know, when you think about our --
11 the advisory but also the work we were doing, the
12 -- the community toolkit, we recognize that we did
13 call for an all-society approach, and we recognize
14 that there are multiple ways to stop or lessen the
15 spread or damage of misinformation, including
16 individuals and others. You know, it's -- it's not
17 just -- it wasn't just a technology company issue
18 or a social media issue.

19 Q. Are you aware who devised that phrase
20 all-of-society approach to describe the advisory --
21 or the advisory --

22 A. I'm not --

23 Q. -- recommendations?

24 A. I'm not aware.

25 Q. Scrolling down in Exhibit 3, the next

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1 bullet point talks about meeting on July 30th, 2021
2 between yourself and representatives of
3 Google/YouTube, correct?

4 A. That is correct.

5 Q. And the interrogatory responses
6 supplied as topics discussed included in
7 YouTube/Google, following up on the announcement of
8 the OSG advisory to share and work the work it was
9 doing around health mis- and disinformation,
10 correct?

11 A. That's correct.

12 Q. What do you remember being said about
13 that in this phone call or Zoom call?

14 A. It was a Zoom call. I think it was
15 really just the YouTube and Google teams saying,
16 hey, we agree that this is a really important
17 issue, and here's all the things that -- that we
18 are working on about it. So it was -- it was them
19 informing us of the steps they are currently
20 taking.

21 Q. And I believe you said part of the
22 follow-up call with Facebook was to ask them to,
23 you know, give a report on any steps they would be
24 taking in response to the health advisory, correct?

25 A. Correct.

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1 Q. And is that what's going on here with
2 -- with YouTube as well, to ask them, okay, we've
3 issued a health advisory. What are you guys doing
4 about it?

5 A. I think they -- they asked for the
6 call. So this was a little different. They asked
7 for the call on their own to share with us what
8 they were doing. I think they -- from a government
9 affairs perspective, public affairs people were
10 trying to say, hey, look, you know, we agree with
11 you, and we want to let you know all the things
12 we're doing.

13 Q. Did the report --

14 A. And, again, I think --

15 Q. Go ahead.

16 A. And I would think, right, we had
17 first had that first call to let them know the
18 report was coming out. The report came out. They
19 looked at it, and then they said, hey, we've looked
20 at it. Let us tell you, you know, what we're
21 doing.

22 Q. And in the first call you had
23 mentioned, I think, that you advised them that
24 there would be some potential recommendations for
25 them, right?

1 A. That there were recommendations for
2 -- I think they -- certainly within the advisory
3 there are recommendations for what social media
4 companies can do.

5 **Q. And then in the follow-up call, they**
6 **came back to you and said, okay, we've read the**
7 **advisory and here are steps that we are taking or**
8 **plan to take in response to the issues raised in**
9 **the advisory?**

10 A. I don't recall specifically, but that
11 was -- the general tone was let us tell you what
12 we're doing about this issue. I didn't -- I didn't
13 get the impression that it was new things. I got
14 the impression that it was work that they were
15 already doing.

16 **Q. What did they report to you?**

17 A. I don't really remember, but I think
18 it was generally saying, hey, we have a -- you
19 know, we have a team that does -- that works on
20 this issue. Like we're -- you know, it's important
21 to us. Like we're thinking about how we're
22 addressing it.

23 Just it was, I think, more of a
24 process call of saying, you know, we want you to
25 know this is on our agenda.

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1 Q. So did they, for example, report that
2 they had adopted new policies to address
3 misinformation on YouTube?

4 A. I don't recall.

5 Q. Or did they give indication they were
6 taking more steps to kind of remove more harmful
7 information on YouTube?

8 A. I don't recall if there was a new. I
9 recall them telling us what they were currently
10 doing to address that. So I -- and some of these
11 calls I experienced as them -- you know, they read
12 the advisory and said, yeah, we are doing that.
13 Thanks. You may not know all the things we're
14 doing, so let us share with you what we're doing.

15 Q. And you don't -- you don't remember
16 whether they, you know, advised you of kind of new
17 policies, like, hey, you raised an issue for us,
18 and -- and here's are some things we're going to do
19 to respond to it?

20 A. I don't recall. I think I would
21 remember because if it was the something new, I
22 feel like we would have shared it or probably done
23 something like put it in a fact sheet to say, look,
24 because of this report, these many new things are
25 happening.

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1 Q. Did you do that for any of them? Did
2 you issue any fact sheets saying, you know, here
3 are some positive developments that came out of the
4 health advisory?

5 A. I don't remember. I don't think so.
6 The only time that could have happened would have
7 been when we did the -- that -- what I keep calling
8 the community toolkit, but I don't recall -- I do
9 remember Twitter tweeted something in support of
10 Dr. Murthy's advisory.

11 So when we launched on whatever, the
12 15th or 16th, the Twitter policy handle I think
13 either retweeted or quote tweeted and said
14 something like, we agree. This does call -- we do
15 need an all-society approach, and here's what we're
16 doing. So that's my one recollection.

17 Q. And we talked earlier about how there
18 was a particular focus on Facebook on July 15th and
19 16th, and you mentioned that, I think, Jennifer
20 Psaki mentioned Facebook specifically in the press
21 conference and President Biden said "They're
22 killing people," the next day.

23 Do you know why the White House
24 thought a particular focus on Facebook was
25 appropriate?

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1 A. I do not.

2 Q. Do you know if they thought
3 misinformation was a bigger problem on Facebook
4 than on other social media platforms?

5 A. I don't know.

6 Q. Do you know if they were having
7 private communications with social media platforms
8 other than Facebook, raising kind of similarly
9 sharply phrased concerns?

10 A. I don't know.

11 Q. Do you remember anything else that
12 was discussed in this July 30th meeting with
13 YouTube and yourself that was the follow-up meeting
14 for the health advisory?

15 A. I do not.

16 Q. Did you say anything in that meeting?

17 A. I mean, I would have -- you know, it
18 would have been a general, like hello, thank you,
19 you know, greeting and just sort of trying to --
20 probably was just in listening mode, and -- I don't
21 recall specifically.

22 Q. Do you remember, you know, expressing
23 approval or concern about the action items that
24 they reported they were doing to address
25 misinformation?

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1 A. I don't recall.

2 Q. Scrolling down the bullet point,
3 there's a reference to an August 10 call between
4 yourself and Rob Flaherty in the White House and
5 people from Facebook that discussed, quote, an
6 operation Facebook uncovered that is related to
7 vaccine misinformation, correct?

8 A. That's correct.

9 Q. Do you -- I think I asked you -- I
10 think we talked about this a little bit before. Do
11 you remember what that was about?

12 A. I believe we -- we did discuss that
13 already. I think I mentioned that Brian Rice had
14 requested a call with me and Rob and, during the
15 call, flagged that Facebook had done some sort of
16 -- had done some sort of internal operation where
17 they discovered -- I don't know if it was bots or
18 something. I actually don't remember. But that
19 they had done something where they discovered some
20 misinformation pieces happening and had taken some
21 corrective action.

22 Q. Do you know why -- first of all,
23 who's Brian Rice?

24 A. Brian Rice is an employee at
25 Facebook. I don't know his exact title, but he's

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1 something like a government affairs, public policy
2 type person. He was, I think, the main sort of
3 like staff level liaison.

4 **Q. So he's -- he's like their government**
5 **affairs person in, you know, Washington, DC?**

6 A. I don't know what his direct title
7 is, but functionally, he was our contact and
8 operated in a way that I would consider a
9 government affairs person to operate.

10 **Q. How did you get connected with him**
11 **originally?**

12 A. I don't recall. I think he -- he
13 might -- no. Payton must have looped him in that
14 -- one of those calls, or maybe -- maybe Nick did.
15 Actually, that's not true.

16 Nick -- I think Brian was on the
17 e-mail with Nick, and I think -- so I got the
18 contacts from that contact sheet, but I don't -- I
19 think I may have also worked with Brian before. I
20 don't really remember.

21 **Q. Okay. Did they ask for this call --**
22 **Facebook ask for that August 10th call?**

23 A. That -- that's correct.

24 **Q. Do you know why they asked for you**
25 **and Rob Flaherty?**

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1 A. I do not know.

2 Q. In other words, have you and Rob
3 Flaherty worked, you know, together on
4 misinformation issues?

5 A. No. Not on -- I think I mentioned --
6 we talked about the -- the one call I had with Rob,
7 but Rob and I had not worked on this issue other
8 than that.

9 Q. So you don't know why Facebook was
10 looping in you and -- and Flaherty on this?

11 A. I think that they had been e-mailing
12 Rob a list -- like a COVID report list that had,
13 you know, some sort of report from Facebook on a
14 biweekly basis. I hadn't been a part of that
15 e-mail, and then I was added to it after my calls
16 with Nick and Dr. Murthy. And so I think Brian was
17 just looping us both, thinking that we were POCs in
18 our respective organizations.

19 Q. And your organizations would be the
20 White House and the Surgeon General's office?

21 A. Correct.

22 Q. And he had the perspective that you
23 were the two POCs to deal with vaccine
24 misinformation for those two agencies?

25 MS. CHUZI: Objection. Calls for

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1 speculation.

2 THE WITNESS: I think on the -- on
3 the COVID -- the COVID report was something that
4 looked like Brian sent to a lot of people, so --
5 and a lot of people at the White House and
6 elsewhere. So I don't know -- I don't know why he
7 selected Rob and me, but he did select us.

8 Q. (BY MR. SAUER) Why were they sending
9 -- sorry. Go ahead.

10 A. No. You go ahead, sir.

11 Q. Why did they -- why -- why was he
12 sending a COVID report to people at the White House
13 and elsewhere?

14 A. I don't know.

15 Q. Okay. You don't know how that got
16 started?

17 A. That's correct.

18 Q. What did Facebook -- or what did
19 Brian Rice say -- actually, it says personnel from
20 Facebook. What did the personnel from Facebook say
21 in this meeting?

22 A. Again, I think -- I think I've
23 already answered this question, sir, but basically,
24 it was the heads-up that they were going to do an
25 announcement the next day about some -- some sort

1 of -- something they discovered. I think it ended
2 up being like a foreign entity was doing work on
3 Facebook, spreading -- I don't know if it -- what
4 type of misinformation, but they were letting us
5 know that they discovered it.

6 Q. Do you know why they thought to brief
7 you guys on that?

8 A. I do not --

9 MS. CHUZI: Objection. Calls for
10 speculation.

11 THE WITNESS: I don't know why.

12 Q. (BY MR. SAUER) Scrolling down
13 another bullet point, there's a reference to a
14 September 14th meeting between yourself and Kevin
15 Kane and Jan Antonaros at Google/YouTube, correct?

16 A. That is what the document says,
17 correct.

18 Q. Yeah. And do you recall that meeting
19 or phone call?

20 A. Not really. That's actually a few
21 days before my first child was born, so I don't --
22 I -- I vaguely remember this.

23 Q. You had other matters on your mind at
24 that time?

25 A. I -- I did.

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1 Q. It -- it -- it -- it says the purpose
2 was a brief meeting to discuss a new policy we are
3 working on as well as provide and update on our
4 overall efforts to combat harmful COVID-19
5 misinformation on the platform, right?

6 A. That's what it says, yes.

7 Q. So this would have been, I take it, a
8 kind of second update by them to you following the
9 health advisory of stuff they're doing to combat
10 harmful COVID-19 misinformation through YouTube,
11 correct?

12 A. That's correct.

13 Q. So first, they provided that update,
14 I think, on the July 30th meeting that we talked
15 about above, correct?

16 A. Yes.

17 Q. And then they --

18 A. Correct.

19 Q. Sorry. And they followed up again on
20 September 14th of another update of, you know, kind
21 of telling the Surgeon General's office what they
22 were doing to fight misinformation?

23 A. That's correct.

24 Q. Do you know what it was -- it says
25 they gave some kind of update on overall efforts to

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1 combat harmful COVID-19 misinformation on the
2 platform. Do you know what those efforts were?

3 A. I don't recall.

4 Q. Do you remember anything specific
5 about what YouTube and Google were doing in this
6 time frame to kind of remove or -- or reduce the
7 spread of misinformation?

8 A. I don't recall.

9 Q. It also says that they were -- the
10 meeting was to discuss a new policy we were working
11 on. Do you remember that?

12 A. I do not.

13 Q. Do you know what new -- was that a
14 new policy that related to misinformation?

15 A. I'm not sure.

16 Q. Or a new policy related to something
17 unrelated?

18 A. I don't recall.

19 Q. You remember YouTube and Google
20 raising anything that was unrelated to the health
21 advisory about this information and these two
22 calls?

23 A. I don't recall.

24 Q. So you don't know whether other
25 topics came up or if they were just focused on

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1 health misinformation following the advisory?

2 A. I'm not certain. I don't recall.

3 Q. Do you remember anything specific
4 that was said in this call on September 14th?

5 A. I do not.

6 Q. Did you say anything?

7 A. I mean, I would have, in general,
8 been -- tried to greet them, asked them how they
9 were doing, and certainly asked them, you know, be
10 -- expressed some sort of feeling of, you know,
11 interest in what they wanted to share.

12 Q. Okay. But do you remember saying
13 anything in response to what they did share about a
14 new policy and update on overall efforts to combat
15 harmful misinformation?

16 A. I do not.

17 Q. Going down a little further, last
18 bullet point here refers to a meeting on
19 November 22nd, 2021. It mentions that personnel
20 from OSG were involved in this meeting. Do you
21 remember -- were you involved in this meeting? Do
22 you know?

23 A. I don't think so. I do not believe
24 so. If I was on it -- if I was in the meeting, I
25 would have identified it.

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1 **Q. Who's Tericka Lambert?**

2 A. I think Tericka -- she's an HSS
3 employee. She is not an OSG employee. I think she
4 was the digital person helping maybe Kristina
5 Schake's team doing some of the COVID-19 vaccine
6 campaign work. I know -- what I -- what I know,
7 for instance, is that she would help us set up --
8 she would help us set up basically like virtual
9 town halls for when we were doing -- you know,
10 doing outreach about our -- our vaccine outreach
11 work, especially for like -- we had like a Listserv
12 of coalition of medical organizations and -- and --
13 and doctors who were -- who were helping on -- on
14 -- on vaccine rollout.

15 **Q. What does ASPA stand for, A-S-P-A?**

16 A. What a great question. I'm not --
17 there's so many acronyms in the federal government,
18 and I try to forget as many of them as possible.
19 I'm not certain, sir.

20 **Q. Is that an HHS component? Do you --**

21 A. It is.

22 **Q. And it mentions others ASPA**
23 **personnel. Do you know who they were?**

24 A. I was not at this meeting, sir, so I
25 do not know.

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1 **Q. How about -- what's the Fors Marsh**
2 **group, F-O-R-S, space, Marsh?**

3 A. I'm trying to remember. Maybe I'm --
4 there was -- maybe there was a briefing where they
5 had an external group who I had some contract with
6 them that was doing some sort of external research.
7 I don't -- I honestly don't recall. I think they
8 -- Fors Marsh. I don't -- I don't know, sir. I'm
9 trying to rack my brain here.

10 **Q. Okay. And you said you weren't in**
11 **this meeting. The interrogatory response says that**
12 **it touched on misinformation. Do you know how the**
13 **meeting touched on misinformation?**

14 A. I don't.

15 **Q. Are you aware of any -- we've gone**
16 **through, I think, nine bullet points here of**
17 **meetings. Are you aware of any other meetings**
18 **between anyone in the Office of Surgeon General and**
19 **anyone from the social media platform that's not**
20 **listed here in the interrogatory response?**

21 A. I think the only thing -- I think the
22 only other possible meetings with -- with
23 technology companies would have been about not
24 misinformation per se, but from press team
25 potentially, if Dr. Murthy, for instance, was going

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1 to do a Twitter town hall or, you know, do a
2 conversation with the CEO of SNAP on -- about
3 mental health, like we would have -- our press team
4 would have communicated with a technology company
5 about a potential use of the platform for a press
6 or communication engagement.

7 Q. Other than those kind of press and
8 communications engagements in the meetings listed
9 here, are you aware of any other contacts between
10 anyone in the Surgeon General's office and social
11 media platforms?

12 A. I'm not aware.

13 Q. I'm going to close out of that
14 document, so it should have dropped off the screen.
15 And then I'm going to e-mail your counsel a few
16 more exhibits.

17 MR. SAUER: Amanda, you should be
18 getting Exhibits 4 through 9 by e-mail momentarily.

19 MS. CHUZI: I am refreshing my inbox.

20 Q. (BY MR. SAUER) And then, Mr. Waldo,
21 I pulled up Exhibit 4 on the screen. Do you see
22 that?

23 A. Yes.

24 Q. Do you see this is an e-mail from
25 Nick Clegg at Facebook to Andy Slavitt and

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1 Dr. Murthy, dated May 28, 2021, correct?

2 A. That's correct.

3 Q. So this would have been, I think,
4 three days after the May 25th, 2021 phone call that
5 was the first bullet point in the interrogatories
6 that we looked at a moment ago in Exhibit 3,
7 correct?

8 A. That's correct.

9 Q. And I take it this would have been
10 before you started with the Surgeon General's
11 office, right?

12 A. That's correct. I was not at the
13 office at this time.

14 Q. Okay. And he has an attachment to
15 this e-mail called 5/28 COVID-19 insights.pdf.
16 Correct?

17 A. That is what is listed as the
18 attachment, correct.

19 Q. Is that the COVID report that you
20 were talking about earlier that you -- I think you
21 said Facebook would send to people at the White
22 House and others?

23 A. I believe so. I -- that's my -- my
24 best guess, sir.

25 Q. Okay. And in the e-mail he says,

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1 thanks for -- again for the time the other day,
2 right?

3 A. That's what he says, yes.

4 Q. Yea. So is that possibly a reference
5 back to the May 25th meeting that's in the
6 interrogatory?

7 A. That's possible, yes.

8 Q. Could there have been another meeting
9 between Nick Clegg and Andy Slavitt and Dr. Murthy?

10 A. It's technically possible, but I find
11 it unlikely.

12 Q. Okay. He goes -- he goes on to say:
13 As promised, I'm sending our latest report that
14 includes top line performing posts for the weeks of
15 May 3rd and May 9th. Do you see that?

16 A. I do.

17 Q. Yeah. He says "as promised." Do you
18 know if this was something that was promised by
19 Facebook in that May 25th meeting with Andy Slavitt
20 and Dr. Murthy?

21 A. I don't know since I wasn't there.

22 Q. Do you know why he's saying "as
23 promised" here?

24 A. I do not.

25 Q. Okay. Who would know that, what was

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1 **promised or may have been promised in the May 25th**
2 **meeting?**

3 A. It seems like if Brian was at the
4 meeting he would know. Andy would know.
5 Dr. Murthy would know. Potentially, someone like
6 Max Lesko or Adam Beckman would know, just as
7 someone whom Dr. Murthy would have debriefed about
8 any call like this.

9 **Q. Would he, as a routine matter,**
10 **debrief Max Lesko about a call like this?**

11 A. I think at that point in the
12 administration, the team was so small that, yes.
13 It would be very unlikely that Max or -- or Adam
14 Beckman wouldn't know about what happened -- they
15 would have asked how the call went, and he would
16 have debriefed with them. There were -- yes.
17 That's correct.

18 **Q. But to your knowledge, they weren't**
19 **on the call?**

20 A. I don't know whether or not they were
21 on the call.

22 **Q. Nick Clegg goes on to say: I also**
23 **want to highlight a few policy updates we announced**
24 **yesterday regarding repeat misinformation, correct?**

25 A. That is what the document says,

1 correct.

2 Q. And so that would be, I take it,
3 policy updates announced on May 27, two days after
4 the May 25th call with Andy Slavitt and Dr. Murthy,
5 right?

6 A. That is two days after the call,
7 correct.

8 Q. And Nick Clegg reports back to
9 Dr. Murthy and Andy Slavitt what he called a few
10 key points, right?

11 A. That's correct.

12 Q. And these include three things that
13 are adding more context about pages that repeatedly
14 share false claims, right?

15 A. That is what the document says,
16 correct.

17 Q. And expanding penalties for
18 individual Facebook accounts that share
19 misinformation, correct?

20 A. That is what the sentence says,
21 correct.

22 Q. And redesigning notifications when
23 Facebook accounts share content that a fact checker
24 later rates, right?

25 A. That is what the sentence says,

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1 correct.

2 Q. Do you know why Nick Clegg reported
3 back to Andy Slavitt and Dr. Murthy about these
4 three key points about addressing repeat
5 misinformation on its platform?

6 A. I do not.

7 Q. Do you know whether that was
8 something they discussed in the call?

9 A. I do not.

10 Q. Let me put up Exhibit 5. Can you see
11 that one?

12 A. Yes, I can. Thank you.

13 Q. So here's an e-mail chain back and
14 forth between Nick Clegg to Dr. Murthy with the
15 biweekly COVID content report attached on June 12,
16 correct?

17 A. That's correct.

18 Q. He says: I'm happy to jump on a call
19 at any point, as is my team, to delve into any
20 details further as needed. Do you know if any such
21 call ever happened? Did people at OSG ever jump on
22 a call with Facebook to talk about these content
23 reports?

24 A. Not to my knowledge.

25 Q. Did you ever read these COVID content

1 **reports?**

2 A. I would give them that cursory glance
3 on occasion?

4 **Q. What do they -- what kind of**
5 **information was in them?**

6 A. I think at the highest level it was
7 about who were the most -- the most engaged tweets,
8 the most viewed -- or sorry, not tweets, the most
9 engaged posts, I think, with respect to both
10 accurate and inaccurate information.

11 **Q. So it was a report that said, here's**
12 **the post that had the most engagements with respect**
13 **to, you know, kind of accurate COVID information?**

14 A. I'm not -- I honestly don't remember
15 it was the most -- I think it was the most engaged
16 or the most viewed posts, and so you could see some
17 of them were about -- had positive information.
18 Some had negative. But I actually didn't spend a
19 lot of time looking at these reports. I only got
20 added to them late.

21 **Q. Who -- who -- who was reviewing those**
22 **reports on the federal government side?**

23 A. I'm not -- I don't have an exhaustive
24 list. I know that Rob received these reports.

25 **Q. Anybody else besides him?**

1 A. I don't recall off the top of my
2 head.

3 Q. How about Adam Beckman? You see he's
4 mentioned up here. You've mentioned him several
5 times already. Was he getting these reports?

6 A. I don't -- I'm not sure. I'm not
7 sure. I don't think so.

8 Q. What was the point of getting these
9 reports from Facebook? What is the point to allow
10 federal officials to track, you know, how much
11 misinformation is being reached or engaged with on
12 Facebook?

13 A. I'm not sure.

14 Q. Do you know if the federal officials
15 did -- did anything with these reports?

16 A. Not to my knowledge.

17 Q. Okay. And I take it the report would
18 have the information. It says: Here's our top
19 highest engagement Facebook post relating to COVID,
20 and it would describe them so you could assess
21 whether or not they contained misinformation or
22 disinformation?

23 A. I honestly don't recall. I think it
24 was a list of the -- again, the highest posts. So
25 yes. You could see, yes, that these were -- this

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1 -- that the highest posts was -- was uplaidd with
2 misinformation. You could probably make that --
3 that determination place.

4 Q. Are you aware of these reports being
5 sent before the May 25th meeting, or did they start
6 after that May 25th meeting between Dr. Murthy Nick
7 Clegg, and Andy Slavitt?

8 A. I don't know based on just a plain
9 reading. It seemed like it's a biweekly report.
10 It seemed like it had preexisted the -- the -- it
11 predates the meeting.

12 Q. Were they sent every two weeks kind
13 of from then on?

14 A. I don't know. I didn't start
15 receiving these until after -- after my meeting
16 with -- with Nick and Brian, and then I believe
17 they kept going, and at some point Brian asked
18 whether or not they should stop sending them. And
19 I think it was right before child -- under 5
20 vaccines was rolled out. So I think we ended up
21 keeping them, but I don't know that anyone was
22 really looking at them anymore.

23 Q. It does say here in Dr. Murthy's
24 response, "I'll look forward to reviewing it." Do
25 you know if Dr. Murthy reviewed it?

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1 A. I do not.

2 Q. Do you remember him discussing those
3 COVID content reports from Facebook in any
4 connection?

5 A. I do not. I'm not sure he ever
6 received it again after this.

7 Q. Do you know why Adam Beckman is on
8 this e-mail chain? It looks like he was probably
9 added as a CC by Dr. Murthy potentially.

10 A. Well, it looks like the e-mail is
11 from Nick. So I don't think -- so it wouldn't have
12 been -- oh, sorry. It's from Dr. Murthy. Thank
13 you, sir. From Dr. Murthy, yeah.

14 I think Adam -- in the early days,
15 Adam was sort of our main COVID policy person, and
16 he was the acting policy director, but he was sort
17 of -- in my parlance of Washington, I would call
18 Adam like a functional deputy chief of staff. He
19 sort of did a little bit of everything. And so he
20 was certainly someone Dr. Murthy relied on for
21 analysis with respect to COVID and other things.
22 So it was probably making sure Adam was in the
23 know.

24 Q. Do you know if Adam reviewed these
25 reports?

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1 A. I do not know if he did.

2 Q. Let me share with you Exhibit 6.
3 Here's an e-mail chain involving you and Lauren
4 Culbertson of Twitter and Todd O'Boyle of Twitter,
5 correct?

6 A. That's correct.

7 Q. And you copied Kyla Fullenwider on
8 the e-mail?

9 A. That's correct.

10 Q. And she's at US Digital Response. I
11 think I asked you this earlier. Do you have an
12 understanding of what US Digital response actually
13 is?

14 THE REPORTER: What US Digital
15 response what? I'm sorry.

16 Q. (BY MR. SAUER) Actually is.

17 A. I think you asked me this question
18 before, sir. I'm not positive, and I think it's a
19 quasi-governmental organization that helps -- that
20 helps federal agencies improve their -- their --
21 their digital data-type work.

22 Q. Gotcha. And do you recall what the
23 purpose of this e-mail chain is here on July --

24 A. Sorry. Can I -- I now have the
25 document in front of me, sir. Can you give me a

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1 moment to -- to review, please?

2 Q. Please do.

3 A. Oh, yeah. This is just to set up the
4 -- we -- we -- this is to set up that outreach call
5 that we talked about previously, sir. So that
6 first e-mail comes on the 6th where I'm -- I'm
7 giving him a heads-up. So then we're -- this is
8 just set up the -- that precall to give them the
9 soft rollout of the advisory.

10 Q. Gotcha. And I think that call --
11 that call ended up happening on July 10th or 12th,
12 is that right, to your recollection?

13 A. That -- that sounds correct, sir,
14 whatever we discussed previously.

15 Q. And the second page of your initial
16 e-mail to them: Hi, Lauren and Todd, you introduce
17 yourself, and you say: As you know, one of the
18 issues Dr. Murthy has been thinking about is how to
19 help stop the spread of health misinformation as we
20 continue to tackle COVID-19 and beyond. Correct?

21 A. That is what the document says,
22 correct.

23 Q. And you wrote that, right, to them,
24 that you wanted to connect with them about how you
25 stop the spread of health misinformation, correct?

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1 A. That's -- that's correct.

2 Q. Yeah.

3 A. And I -- I wrote to them saying that
4 Dr. Murthy has been thinking about how to stop the
5 spread, yes.

6 Q. And that's what you wanted to connect
7 with them about, correct?

8 A. Correct. This was the rollout call,
9 so we were giving them a heads-up about the
10 advisory.

11 Q. Yeah. It says: I know you and your
12 teams are working hard and thinking deeply about
13 this issue. We'd love to chat over Zoom to connect
14 and discuss what's on the horizon for our teams.
15 Correct?

16 A. That is what I wrote, correct.

17 Q. Yeah. And so what's -- what was on
18 the horizon for your team at that time? Are you
19 referring to the health advisory?

20 A. Yeah. So again, this is the -- this
21 is trying to meet with them to give them a heads-up
22 about the advisory.

23 Q. Was there anything else on the
24 horizon for this general's -- I'm sorry the Surgeon
25 General's team at that time?

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1 A. I think we were -- we knew that we
2 were going to eventually tackle issues like youth
3 mental health, you know, health worker mental --
4 mental health, and social isolation and loneliness.
5 So I already had those high level themes that I
6 knew Dr. Murthy wanted to work on.

7 So as a -- sort of first intro to
8 potential partner or impacted partner by our work,
9 I might have given them a general, like, hey, these
10 are some of the other things that we'll likely be
11 tackling as an office in the years to come.

12 Q. You say: I know you and your teams
13 -- I guess that's the Twitter teams -- are working
14 hard and thinking -- thinking deeply about this
15 issue -- being how to help stop the spread of
16 health misinformation, correct?

17 A. That is correct.

18 Q. Yeah. And then in this e-mail, you
19 go on to say you want to connect and discuss what's
20 on the horizon for our teams. So that includes
21 what's on the horizon for the Twitter team,
22 correct?

23 A. That's correct.

24 Q. Did you ask them in that first call
25 what was on the horizon for their team when it came

1 **to helping stop the spread of health**
2 **misinformation?**

3 A. I think -- again, I think that we've
4 already discussed that -- what occurred during that
5 call, but it was the overall giving them a heads-up
6 about the advisory. Now with the recollection
7 here, maybe I gave them a heads-up also about other
8 things coming from our office for the year. But
9 that would have been the nature -- nature of what
10 we discussed.

11 Q. **Was there any inquiry by you about**
12 **what was on the horizon for their teams, or was it**
13 **just kind of a one-way communication, here's what**
14 **OSG plans to do?**

15 A. There may have been some polite
16 rapport. I don't recall.

17 Q. **Did you ask them anything about**
18 **whether, you know, taking the steps to help stop**
19 **the spread of health misinformation was something**
20 **on their horizon?**

21 A. I don't think so, because, again, the
22 purpose of the call, which I know we've already
23 discussed, was about letting them know this is
24 coming out, letting them know how overall to take a
25 look at it and then, you know, we want them -- we'd

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1 share with them and we could follow up without that
2 and TBD.

3 You know, maybe they didn't want to
4 work on youth mental health. Maybe they wanted to
5 work on another issue that we could collaborate
6 potentially on other things as well.

7 Q. I'm going to show you Exhibit 7. Do
8 you see this exhibit on the shared screen?

9 A. I do. And I also have it in front of
10 me.

11 Q. Yeah. And is this -- briefly, is
12 this the -- I think you mentioned that you wanted
13 to have the introductory call with you and Kyla and
14 Facebook before the rollout, but it happened to be
15 -- end up being scheduled on Friday, the 16th,
16 right?

17 A. Correct. That's correct.

18 Q. And was that -- was that by design?
19 Did you, you know, kind of want the Facebook
20 initial call to occur after the 15th and 16th when
21 the rollout happened, or was that a kind of vagary
22 of scheduling?

23 A. That was a vagary of scheduling.
24 Have you -- yeah. Because there was a trip to --
25 to New Mexico where I was staffing Dr. Murthy. So

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1 it limited some of our travel windows, but I tried
2 to schedule all of the calls beforehand. So I had
3 offered them the Monday slot, hoping that they
4 would take it, but it didn't work out.

5 Q. Yeah. Do you know -- so that Monday,
6 I take it, would have been like July 12th, and
7 Friday was the 16th, which ended up being after the
8 rollout, correct?

9 A. You're accurately describing those
10 dates.

11 Q. Yeah. Gotcha. Did you know at the
12 time that the rollout would involve a kind of
13 unique focus on Facebook?

14 A. I did not.

15 Q. So were you surprised, for example,
16 when Jen Psaki made comments that were kind of
17 specifically calling out Facebook at the July 15th
18 press conference?

19 A. Yes. I was surprised.

20 Q. Do you know what her basis for those
21 comments was?

22 A. I do not.

23 Q. And obviously, did you know the
24 President was going to tell the media "They're
25 killing people" in response to a question about

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1 Facebook?

2 A. I did not know that.

3 Q. Let me show you Exhibit 8. Can you
4 see that on the screen?

5 A. I can. I also have it in front of
6 me.

7 Q. And, again, is this the kind of
8 e-mail chain where you and Kyla were connecting
9 with people at Google, slash, YouTube for this
10 rollout call?

11 A. Correct.

12 Q. And I believe this is the one you
13 testified earlier ended up being scheduled on
14 July 14th, right, just the day before the rollout?

15 A. That's -- that's correct.

16 Q. Go to the third page of this
17 document. You send basically the same initial
18 e-mail that you'd sent to Twitter in the prior
19 e-mail I showed you, right?

20 A. And I also used the same e-mail to
21 Facebook.

22 Q. Yeah. Yeah. You -- and, again, you
23 said that to them -- first of all, you refer to
24 Alexandra and Kevin. Do you know how -- I take it
25 that's Kevin Kane and Alexandra Veitch. Is that

1 **right?**

2 A. That's what the last name appears to
3 be online, yes.

4 **Q. Do you know how you got the contact**
5 **for those people, how you got their contact**
6 **information?**

7 A. I think you asked me this before,
8 sir, but that was the -- we had a spreadsheet for
9 the rollout that was cross-populated. And so I
10 think I would have gotten it from -- from those
11 folks. It's also possible -- I did know of former
12 a former -- former colleague of mine worked at
13 Google. If I didn't have it from the spreadsheet
14 which had suggestion of partners to reach out to, I
15 might have asked someone for the government affairs
16 person at Google and YouTube.

17 **Q. Who prepared that spreadsheet?**

18 A. I think it was a -- it was a cross --
19 it was a shared document. I think -- I think
20 Daniel might have had the first pen at it since he
21 was originally running the rollout for -- for the
22 advisory.

23 **Q. Do you know if that document still**
24 **exists in electronic form?**

25 A. I don't. It -- it's a share point.

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1 I don't have any reason to believe it wouldn't
2 exist.

3 Q. Is that on Google drive or what kind
4 of share point is used?

5 A. It's whatever the government has
6 approved, but it's a -- it's a SharePoint on --
7 it's a -- it's a government-approved SharePoint.

8 Q. Here, you --

9 A. I think it's a Microsoft type
10 document. I think we used Teams in SharePoint.
11 Certainly not a Google document.

12 Q. Here, you say again that Dr. Murthy's
13 been thinking about how to help stop the spread of
14 health misinformation, and you'd love to connect
15 and discuss what's on the horizon for our teams.

16 In the meeting that you had with
17 these Google representatives, did you discuss what
18 was on the horizon for their teams when it comes to
19 this the spread of health misinformation?

20 A. I don't recall.

21 Q. So you --

22 A. I think, again, just -- just -- just
23 like the last one, this was -- we had Kyla on the
24 call and giving them a high-level update that we're
25 going to have this advisory come out and that we

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1 want them to take a look at it.

2 Q. Do you remember you, yourself, asking
3 them for any kind of input on what they might do in
4 this area?

5 A. I don't recall.

6 Q. Do you remember them saying anything
7 about that, whether or not you asked? Oh, here's
8 what, you know, you and Google may be doing in the
9 space of stopping the spread of health
10 misinformation?

11 A. I don't recall.

12 Q. Let me show you Exhibit 9. Here's
13 another e-mail from Nick Clegg to Dr. Murthy and
14 Andy Slavitt, copying Brian Rice, correct?

15 A. That's correct.

16 Q. And he's sending another one of these
17 COVID insight reports, correct?

18 A. That's correct.

19 Q. He highlights a couple of
20 vaccine-related efforts in that e-mail to them,
21 right?

22 A. That's correct.

23 Q. Do you know whether Andy Slavitt or
24 Dr. Murthy asked Facebook to send them information
25 or updates about what kind of information Facebook

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1 was spreading about vaccines in particular?

2 A. I don't know.

3 Q. And in the e-mail above, another
4 e-mail from Nick Clegg to Dr. Murthy and Andy
5 Slavitt, he gives yet another COVID report and he
6 says that I understand that -- per Brian that my
7 team is meeting with yours next week to delve
8 deeper into our COVID misinformation efforts,
9 correct?

10 A. That's what the document says,
11 correct.

12 Q. Do you know what meeting that is
13 between the Facebook and -- and Surgeon General's
14 teams was?

15 A. Yeah. I think -- I think he's
16 referring to the meeting on the 16th that we're
17 going to have the rollout meeting that got pushed
18 to the Friday after the rollout.

19 Q. And so he's sending this e-mail on
20 July 10th?

21 A. Right. And the --

22 Q. Go ahead.

23 A. And the rollout call with them was on
24 the 16th, I believe.

25 Q. So you think that -- are you aware of

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1 **any other meeting between, you know, Facebook's**
2 **team and Dr. Murthy's team in that week?**

3 A. I'm not familiar with any other
4 meeting.

5 Q. Okay. And it talks about how
6 Facebook's understanding of that meeting is that it
7 was going to delve deeper into our COVID
8 misinformation efforts, correct?

9 A. That is what the document says,
10 correct.

11 Q. So that was Mr. Clegg's understanding
12 of what was going to happen in this rollout
13 meeting, right?

14 A. It would appear so. I don't -- I
15 can't speak to what he understood, but that's what
16 he expresses.

17 Q. Is that what you -- do you know why
18 he thinks that's what the meeting is going to be
19 about?

20 A. I think we have the e-mail that you
21 already showed of me inviting Nick and Brian to the
22 meeting, which is the same e-mail I used for all
23 the parties, with the same language, same that
24 we'll discuss health misinformation.

25 Q. So you think that's his basis for

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1 thinking that you sent that same e-mail that you'd
2 already sent to Twitter and YouTube talking about
3 how, you know, Dr. Murthy wants to help stop the
4 spread of health misinformation and wanted to
5 discuss how -- what's on the horizon for our teams,
6 right?

7 A. That's correct.

8 Q. And so Facebook had the understanding
9 at this stage that these meetings would be to,
10 quote, delve deeper into our COVID misinformation
11 efforts, right?

12 A. That's -- that's your interpretation,
13 and that makes sense based on what he said.

14 Q. Did you, in that July 16th meeting,
15 delve deeper into Facebook's COVID misinformation
16 efforts?

17 A. Not to my recollection. This was
18 again Kyla sort of going a little bit more over the
19 -- as we discussed previously when we talked about
20 this meeting, when you're going over the
21 interrogatories, I think it was Kyla going more
22 over the advisory, to my recollection. She may
23 have asked additional questions.

24 Q. Could those additional questions have
25 related to Facebook's efforts to combat health

1 **misinformation?**

2 A. Absolutely.

3 **Q. Did they, to your recollection?**

4 A. I think she had some questions about,
5 again, the research side. I think some questions
6 came up about CrowdTangle, if I recall correctly,
7 which was a -- a data port for some -- some ways to
8 understand the Facebook, again, impact and research
9 of the misinformation.

10 **Q. So you think she, in that July 16th**
11 **meeting, asked about CrowdTangle?**

12 A. I think so. I'm not positive.

13 **Q. What is -- what is CrowdTangle**
14 **exactly?**

15 A. I'm not exactly positive, sir. I've
16 never used CrowdTangle, but I believe it's -- it's
17 some sort of data port to help -- help some
18 researchers or help users understand, you know, the
19 reach of some -- some of Facebook's posts and --
20 and -- and interactions.

21 **Q. Is that something that's publicly**
22 **available, or is it something that Facebook only**
23 **provides to select individuals?**

24 A. I think it's publicly available, but
25 I really don't know.

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1 Q. And you don't remember what Kyla was
2 saying about the use of CrowdTangle in this
3 meeting?

4 A. I do not.

5 Q. Was she asking if they could have
6 access to it or asking how you interpret data from
7 it, anything like that?

8 A. I don't recall.

9 Q. Is this information from CrowdTangle
10 different from the information in the COVID
11 insights reports that we've seen, you know, Nick
12 Clegg e-mailing to Dr. Murthy, and you said you got
13 added to later on? Are those two different things,
14 CrowdTangle and the COVID insight reports from
15 Facebook?

16 A. I mean, that could be a per se
17 different things, but I don't know if materially
18 the -- the -- the information expressed is
19 different.

20 Q. Do you know whether it was -- do you
21 know whether Kyla was asking for -- you know, was
22 raising CrowdTangle in connection with asking for
23 more transparency or more access to data about
24 misinformation on Facebook?

25 A. I'm not -- I don't recall.

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1 Q. Did your remember anything else --
2 what did Facebook say about CrowdTangle in that
3 meeting?

4 A. I don't recall what their answer was.

5 Q. Do you remember anything else that --
6 that Kyla said in that meeting?

7 A. I do not.

8 Q. I'm e-mailing your counsel three more
9 exhibits, 11 and 12, and I'm going to pull up
10 Exhibit 10 on the screen, but I'll wait until
11 Ms. Chuzi --

12 MS. CHUZI: Thank you, Counsel.
13 While we're waiting, we've been going for another
14 hour, so what are we thinking about a break?

15 MR. SAUER: This is a natural
16 breaking point for me if you want a short break now
17 and then go another hour before having a later
18 lunch, that's fine. I'm also fine going -- either
19 way would be fine with me. Tammie's opinion is
20 very important here.

21 (A discussion was held off the
22 record.)

23 THE VIDEOGRAPHER: The time is 11:07
24 a.m. We are off the record.

25 (A short break was taken.)

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1 THE VIDEOGRAPHER: The time is 11:19
2 a.m. We are back on the record.

3 Q. (BY MR. SAUER) Mr. Waldo, in the
4 next few exhibits, I want to direct your attention
5 more specifically to that July 15th rollout of the
6 health advisory we've been talking about. And I
7 want to start by sharing Exhibit 10 with you, which
8 is the transcript of the press conference involving
9 Jen Psaki and Dr. Murthy where the health advisory
10 was announced. Do you see that on the screen?

11 A. I can. I also have the document in
12 front of me.

13 Q. Were you at this press conference?

14 A. I was not.

15 Q. Okay. Did you watch it? Did you see
16 the attorney general speak?

17 A. I think I had some multiple screens
18 up. I was probably doing calls or work, but it may
19 have been on in the background.

20 Q. And would you -- were you part of the
21 team that worked with him to craft the message at
22 this press conference?

23 A. It would have been the press
24 secretary who would have worked on this.

25 Q. But not you. Would you have had

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1 **input in his comments on -- on this?**

2 A. I -- at this juncture, I did not to
3 my recollection.

4 Q. Uh-huh. Okay. If you go to the
5 **second page of the document, there's an**
6 **announcement today. I issued a Surgeon General's**
7 **advisory on the dangers of health misinformation,**
8 **right?**

9 A. Correct.

10 Q. Yeah. And then Dr. Murthy goes on to
11 **say: Surgeon general advisories are reserved for**
12 **urgent public health threats. Correct?**

13 A. That is what the document says.

14 Q. So his message is that health
15 **misinformation is an urgent public health threat,**
16 **correct?**

17 A. That is what he says, correct.

18 Q. Yeah. And he -- he describes it as
19 **an imminent and insidious threat to our nation's**
20 **health, correct?**

21 A. Where is that, sir? Oh, yes. The
22 next -- I see it. Thank you. He -- he says: And
23 while those threats have often been related to what
24 we eat, drink, and smoke, today we live in a world
25 where misinformation poses an imminent and

1 insidious threat to our nation's health.

2 Q. So he's likening -- kind of like you
3 did earlier, he's likening health misinformation to
4 carcinogens in -- in tobacco, for example, with a
5 reference to smoking, right?

6 A. That's the example I used, correct.

7 Q. Yeah. And he references the smoking
8 himself, too, right? So that's a similar point,
9 right?

10 A. Oh, yes. He does say -- well, he
11 says that, in previous -- previous advisories have
12 been about threats like smoking, and misinformation
13 is -- is an imminent and insidious threat.

14 Q. Gotcha. And he goes on to say that
15 health misinformation is false or misleading
16 information about health according to the best
17 evidence at the time, right?

18 A. Correct.

19 Q. And is that definition of health
20 misinformation is something that's used by the
21 Surgeon General's office in -- in this health
22 advisory and elsewhere as well, right?

23 A. I believe that is the definition that
24 is listed within the advisory, correct.

25 Q. And were you involved in adopting

1 **that definition?**

2 A. As we discussed previously, I was not
3 in the office while the advisory was developed or
4 finalized, so I was not part of the creation or did
5 not have input into the definition, therefore.

6 **Q. So do you know who devised that**
7 **definition or how it was formulated?**

8 A. So I think as we've already
9 discussed, the content of the advisory would have
10 been worked on by people like Daniel Tartakovsky,
11 Kyla Fullenwider, maybe Adam Beckman, you know.
12 Certainly, Dr. Murthy would have had eyes on it.
13 Those are the types of people who would have looked
14 at it. Probably some other members of the -- of
15 the science and policy team like maybe Tyiesha
16 Short, who was a policy associate.

17 **Q. And does that definition contemplate**
18 **that what constitutes misinformation might change**
19 **over time?**

20 A. I think that's a fair reading of --
21 of the -- of the -- of the definition.

22 **Q. So in other words, the best evidence**
23 **may indicate at one stage that something is**
24 **misinformation, and later better evidence may come**
25 **up that makes it turn out to be more reliable. Is**

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1 that fair to say?

2 A. I think that's a fair reading of --
3 of the definition.

4 Q. So something that we now think is
5 misinformation may later turn out to be accurate
6 information, right?

7 A. And vice versa.

8 Q. Yeah. Right. Where something you
9 think was accurate may turn out to be misleading,
10 right?

11 A. I think -- I think we're -- I think
12 you stated the definition and multiple reasonable
13 interpretations of that definition.

14 Q. And Surgeon General goes on to say
15 that the truth is that misinformation takes away
16 our freedom to make informed decisions about our
17 health and the health of our loved ones, right?

18 A. That is what he said in the press
19 conference, correct.

20 Q. Yeah. And is that the view of the
21 Surgeon General's office, that health
22 misinformation takes away freedom, specifically the
23 freedom to make informed health decisions?

24 A. I'm not sure we've made a
25 determination that that's the -- the signed-off

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1 view of the entire office, but that's coming out
2 from the Surgeon General, so I think it's fair to
3 ascribe to our office.

4 Q. In other words, that's Surgeon
5 General Murthy's view. That's what he said at says
6 that press conference, right?

7 A. That's what he said at the
8 conference, so I think it's fair to ascribe as his
9 view.

10 Q. And he immediately goes on to say:
11 During the COVID-19 pandemic, health misinformation
12 has led people to resist wearing masks in high-risk
13 settings, right?

14 A. That is what the sentence says,
15 correct.

16 Q. Yeah. And so I take it his view is
17 that it's health misinformation that masks are
18 ineffective in stopping the spread of the virus in
19 high-risk settings, right?

20 A. I think that's a fair reading.

21 Q. So here, I jotted down a sentence
22 about masks here that says: The typical mask you
23 buy in a drug store is not really effective in
24 keeping out virus, which is small enough to pass
25 through material as a discussion of the

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1 effectiveness of mask wearing. Would that sentence
2 be health misinformation on the view of the Surgeon
3 General's office?

4 A. Well, I guess you're asking me a
5 hypothetical. There is no -- Surgeon General's
6 office doesn't have like a team that -- that helps
7 determine whether or not something is health
8 misinformation. But I think it would be under a
9 reasonable person's standard. You could look at a
10 sentence like that and decide whether or not you
11 thought it was. I'd want to consult the policy
12 lead or someone to say whether it was or was not.
13 It doesn't sound like misinformation to me, but
14 that's just, you know, I'm -- that's my sort of
15 layperson's view.

16 Q. Is this the sort of information that
17 could lead people to resist wearing masks in
18 high-risk settings to say --

19 MS. CHUZI: Objection. Calls for
20 speculation.

21 MR. SAUER: Let me finish.

22 THE WITNESS: I'm not --

23 Q. (BY MR. SAUER) Go ahead.

24 A. Go ahead, sir. No. Go ahead, sir.

25 Q. Go ahead.

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1 A. Sorry. No. I -- I -- can you repeat
2 the question?

3 Q. Is that the sort of misinformation
4 that could lead people to resist wearing masks in
5 high-risk settings, the statement that the typical
6 mask you buy in a drug store is not really
7 effective in keeping out virus?

8 A. I don't know.

9 Q. Does the Surgeon General -- Surgeon
10 General's office has given a lot of -- or made a
11 lot of statements about combating health
12 misinformation. Does the Surgeon General's office
13 give any guidance about how to determine whether or
14 not something is misinformation?

15 A. I think the definition is the attempt
16 to recognize the complexity of it. I also think
17 it's important to recognize that the advisories
18 about mis- and disinformation and that there's a --
19 certainly a spectrum of -- within that.

20 And I think Dr. Murthy explicitly
21 also talks about that oftentimes people are
22 spreading information with good intention that may
23 not be accurate. And our goal is to spread more
24 accurate information and to create connections and
25 -- and ways for people to connect with folks who

1 are more likely to share accurate information.

2 Q. Does the Surgeon General give advice
3 on how to determine what's accurate and what's not
4 accurate?

5 A. I don't recall that -- I think there
6 was the -- that view -- I -- I think within the
7 documents, certainly within the toolkit he talks
8 about examples of more trusted sources that he
9 recommends people reach out to.

10 Q. He goes on to say: Modern technology
11 companies have enabled misinformation to poison our
12 information environment with little accountability
13 to their users. Do you see that?

14 A. I do see that.

15 Q. So I think we alluded earlier to the
16 fact that he did use the word "poison" to describe
17 misinformation, right?

18 A. That's correct. We did discuss the
19 use of the word "poison."

20 Q. He talks about another word here that
21 I think the Surgeon General's office uses a lot,
22 which is the word "accountability." I think that
23 Dr. Murthy and advisory talk about holding the
24 social media platforms accountable for
25 misinformation on their platforms. Do you know

1 **what's meant by "accountable"?**

2 A. I don't -- I don't have a definition
3 of accountable in the -- for the purposes of your
4 question.

5 **Q. Do you know what the Surgeon**
6 **General's office intends it to mean when it uses**
7 **the word accountable and accountability for social**
8 **media platforms?**

9 A. I think there's generally the notion
10 that, you know, they've -- that they have, you
11 know, I would say an obligation to try to make sure
12 that they're not doing harm. So as opposed to just
13 saying, hey, I built this -- I built this highway
14 and I'm not going to put any speed limits on it or
15 stop signs or warn people that there's a turn
16 ahead, you know. We want to say are we doing
17 anything to reduce the likelihood of a collision.
18 You want a stop sign, a speed limit, some lines on
19 the road, some -- some -- some -- some traffic
20 cameras, et cetera.

21 So I think the, you know, idea is
22 social media companies have created this platform
23 that is where many, many people receive news that
24 they believe. How can we in a time of a historic
25 pandemic think about ways to -- to have a

1 heightened sense of obligation to make sure that
2 that's not being used in a -- have a corrosive
3 effect on -- on the health of others.

4 Q. Does accountability include accepting
5 the consequences for when you do something wrong or
6 -- or inappropriate?

7 A. That's a -- that's a fair and modern
8 use of the word accountable.

9 Q. And is that what's included in what's
10 intended or meant when that word is used by the
11 Surgeon General's office with respect to social
12 media platforms, that they should accept
13 consequences --

14 A. I don't --

15 Q. -- for when they don't do enough to
16 stop the spread of misinformation that can harm
17 people?

18 A. I don't know.

19 Q. But you'd say that would be a fair
20 understanding to a modern user of that word,
21 correct?

22 A. I think you're providing a reasonable
23 reading of the word accountable in the context of
24 this paragraph.

25 Q. Were you involved in discussions

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1 **about using -- choosing to use the word**
2 **accountable? It does pop up a lot in these OSG**
3 **communications.**

4 A. I think if you asked before whether
5 or not I was -- participated in the creation of
6 these remarks, I did not. So, therefore, I would
7 not have had any view into whether or not -- and
8 how to choose the word accountable.

9 Q. **Goes on to say that the social media**
10 **platforms have allowed people who intentionally**
11 **spread misinformation, what we call disinformation,**
12 **to have extraordinary reach, correct?**

13 A. That is what the sentence says,
14 correct.

15 Q. **And that's something he's calling on**
16 **them to stop to prevent the reach of those who**
17 **spread disinformation. Is that fair to say?**

18 A. He's call -- again, I think the
19 advisory and all this is -- is providing technology
20 companies and others with the idea of this is an
21 issue. There -- there's an obligation or -- or --
22 or certainly an imperative to do more. So reduce
23 -- reduce if not only -- not only stop but reduce
24 or take some sort of mitigating efforts so that the
25 misinformation and disinformation is not leading to

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1 poor health results for people.

2 Q. Yeah. In other words, that some
3 steps should be taken by social media platforms to
4 stop the extraordinary reach of disinformation on
5 their platforms, correct?

6 A. I think it's to stop -- I would view
7 it as stopping the harm, and this goes to our
8 conversation that you and I have had earlier,
9 right? I think you want to -- I think there's the
10 presumption right now that the reach is leading to
11 harm. I think that within the context of the
12 advisory, there's a desire to learn and study more,
13 which is also part of the conversations we've
14 already talked about vis-a-vis Facebook around
15 understanding the nature of the reach to understand
16 the depth of harm. So I think -- I think that's
17 all -- all on the table.

18 Q. Yeah. And one of the things that's
19 on the table, I think you testified earlier, is
20 that when the health advisory was issued, the
21 Surgeon General's view was that stopping the spread
22 is one way to stop the harm, correct?

23 A. I think that's what the document
24 says, so I don't have any reason to believe that's
25 not what -- what -- what -- what -- what the

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1 Surgeon General meant when it was written.

2 Q. On the next page, the Surgeon General
3 goes on to say: We are saying we expect more from
4 our technology companies. Correct?

5 A. That's correct.

6 Q. And it says: We're asking them to
7 operate with greater transparency and
8 accountability. Correct?

9 A. Correct.

10 Q. Yeah. In other words, so this is
11 kind of a call to action to the social media
12 platforms, right? We're asking them to do things,
13 right?

14 A. That's correct.

15 Q. Yeah. And one of those things is
16 greater transparency. I assume that's a reference
17 to the kind of data sharing that was raised in
18 these private calls including with Kyla
19 Fullenwider, correct?

20 A. Yeah. I think, again, helping people
21 understand what is the nature of the reach and the
22 nature of the impact of -- of this health
23 misinformation, disinformation.

24 Q. And then accountability, I think you
25 testified earlier, a reasonable understanding of

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1 that term would be -- include the social media
2 platforms accepting consequences for negative
3 behavior that's -- that they're responsible for,
4 correct?

5 A. I read -- I read this sentence -- it
6 says: Fourth, we're saying we expect more from our
7 technology companies. We're asking them to operate
8 with greater transparency and accountability.

9 I read that sentence to mean
10 accountability as accountability to the -- to the
11 public around this public health emergency.

12 Q. And -- and -- and again, the public,
13 then, would expect them to accept responsibility
14 and consequences if they behaved badly, correct?

15 A. I mean, in my mind -- again, we're
16 asking them about accountability means, hey, we
17 can't just say it's not. We have -- it's not our
18 fault. There's nothing we can do to improve this
19 accountability. It's like we -- we -- this is
20 happening with our platform. We have a duty to try
21 to improve the outcomes and help -- help make sure
22 there's fewer bad outcomes when using our platform
23 during a pandemic with historic deaths.

24 Q. Yeah. In other words --

25 A. Historic and preventable deaths.

1 Q. Yeah. In other words, we're asking
2 them to take more proactive steps to stop the
3 spread of misinformation?

4 A. Yes. Or to help us -- help the
5 public or help people understand how to do that.
6 It could be -- research could help us understand
7 that if you send a positive message this way, it
8 can undo the harm of the negative messaging.
9 There's all sorts of things we could learn that
10 would create the actual tactics as to opposed to
11 the, you know, prescriptive strategies.

12 Q. Right. And one tactic is mentioned
13 in the -- later in the paragraph -- or two tactics.
14 One is he says, we're asking him to monitor
15 misinformation more closely, right? So --

16 A. That is what the sentence says,
17 correct.

18 Q. Yeah. And then Dr. Murthy said,
19 we're asking them to consistently take action
20 against misinformation superspreaders on their
21 platforms, correct?

22 A. That is what he says, yes.

23 Q. That's a specific action item that
24 the Surgeon General urged social media platforms to
25 take, which is essentially to remove content spread

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1 **by misinformation superspreaders, right?**

2 A. That's not what the sentence says.

3 He says: We're asking them to consistently take
4 action against.

5 You are supposing that means remove.

6 It could just be we're not going to have the
7 algorithm amplify it or we're not going to allow it
8 to be retweeted, or we're going to put a corrective
9 warning label. There are plenty of the examples
10 that would be -- that could take action that would
11 reduce the harm of the misinformation superspreader
12 and keep it from spreading.

13 **Q. So some of those potential actions**
14 **that they could take would include assigning**
15 **warning labels, correct?**

16 A. Correct.

17 **Q. Yeah. And some might include**
18 **deamplifying the content from information**
19 **superspreaders and their algorithms, correct?**

20 A. That's correct.

21 **Q. And another action might be taking**
22 **down the content. Bad posts just get taken down**
23 **altogether. That would be a potential action to**
24 **take against superspreaders, right?**

25 A. That is a potential action, yes.

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1 **Q. And another potential action would be**
2 **to, you know, deplatform that, right? To cancel**
3 **their accounts altogether, right?**

4 A. That's a potential action that a --
5 that a social media platform could take.

6 **Q. And Dr. Murthy calls for social media**
7 **platforms to take action against misinformation**
8 **superspreaders, right?**

9 A. That is what the sentence says,
10 correct.

11 **Q. I'm going to flip ahead a few pages**
12 **in this. It's the page marked 45.5 on the bottom**
13 **right.**

14 A. I'm sorry. Could you repeat that.
15 We had to unlock the -- the laptop -- or the iPad.
16 What -- what the page are we on again?

17 **Q. 45.5. It should be the fifth in the**
18 **exhibit pdf.**

19 A. Fifth page of the pdf? Okay. Thank
20 you.

21 **Q. Do you see --**

22 A. Yep.

23 **Q. -- about halfway down --**

24 A. Yep.

25 **Q. -- the page a reporter asks the**

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1 Surgeon General Murthy the question: Do you
2 personally believe that public figures and public
3 companies that are helping spread misinformation
4 about the vaccine should be held accountable?
5 Right?

6 A. I do see that -- that question, yes.

7 Q. Yeah. And he responds by saying:
8 How can we be more accountable and responsible for
9 the information that we share? Right?

10 A. Yes.

11 Q. And he says the bottom line is that
12 all of us have an important role to play, and
13 technology companies have a particularly important
14 role, right?

15 A. That is what he says, correct.

16 Q. And he goes on to say: We're asking
17 them to step up? Right?

18 A. Yes. Can I actually read that whole
19 paragraph, sir? Give me one second.

20 Q. Sure.

21 A. Okay. Thank you, sir.

22 Q. Okay. And he says that -- in that
23 paragraph the speed and scale at spreading this
24 information has been in part enabled by these
25 platforms. That's social media platforms, correct?

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1 A. That's correct.

2 Q. And that's why he says that's why in
3 the health advisory today we're asking them to step
4 up, right?

5 A. That's correct. That's what he says.

6 Q. Yeah. And he says we know they have
7 taken some steps to address misinformation, but
8 much, much more has to be done, right?

9 A. That is what he says, correct.

10 Q. He says: We can't wait longer for
11 them to take aggressive action because it's costing
12 people their lives. Right?

13 A. That's correct.

14 Q. So in other words, he's calling for
15 aggressive action by social media platforms to
16 address misinformation on their platforms, right?

17 A. Correct.

18 Q. Yeah. And he doesn't specify there
19 what the aggressive action should be, but it needs
20 to be much, much more in his view than is already
21 -- is already being done, right?

22 A. That's correct.

23 Q. And that's a public message that all
24 the social media platforms are receiving, right?

25 A. Well, I don't know which ones of them

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1 were watching this press conference or not, but
2 they presume -- we know we sent them the advisory,
3 and it's certainly a well-covered event. So
4 hopefully, they received that message.

5 Q. And, in fact, you had some
6 introductory calls with at least three of them to
7 tell them it was coming and encouraging them to
8 watch, right?

9 A. We did not encourage them to watch
10 the press conference.

11 Q. Okay. But you encouraged them to pay
12 attention to the advisory, right?

13 A. We encouraged them to read the
14 advisory we shared with them, yes.

15 Q. And then you asked them -- each of
16 them as a follow-up what actions they might have
17 taken in response to the advisory, right?

18 A. I don't think we asked each of them.
19 I think we definitely -- I think Facebook and
20 Twitter, maybe Google, but my guess is that most of
21 them, yeah.

22 Q. Did you ever communicate with any
23 other social media platforms other than Facebook,
24 Twitter, and Google/YouTube?

25 A. I guess, again, Facebook also

1 includes Instagram. So, you know, I think it's
2 Facebook, Instagram, Twitter. I can't -- I don't
3 think so. I know there was a discussion about
4 whether or not we wanted to reach out to, I think,
5 Pinterest, but we -- I don't believe that we did.

6 I think Dr. Murthy had shared -- I
7 think Next Door is another social media site that
8 maybe actually had like some more favorable
9 policies that they were -- were their take on this.
10 We talked about potentially highlighting them, but
11 I -- I didn't do any outreach to those groups.

12 **Q. How about LinkedIn or Reddit or**
13 **Verizon Media, Microsoft? Any of those?**

14 A. We did not do any outreach to
15 LinkedIn, to my knowledge; not to Microsoft, to my
16 knowledge. We did a Reddit "Ask Me Anything." May
17 not have been about misinformation. It may have
18 been about one of our other health topics. I
19 remember us doing prep for a Reddit AMA, which
20 stands for "Ask Me Anything." But I don't believe
21 we reached out to Reddit for misinformation.

22 **Q. The American Medical Association will**
23 **be pleased to hear that -- that acronym.**

24 Let me turn your attention to page 10
25 of this document, 4510. And this is after

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1 Dr. Murthy has already left the press conference.
2 There's follow-up questions to Jen Psaki. Do you
3 see that?

4 A. Yes.

5 Q. Okay. So there's a question here
6 that refers back, I think, to Dr. Murthy's comment
7 about being more aggressive, where it says -- the
8 reporter says: Can you talk a little bit more
9 about this request for tech companies to be more
10 aggressive in policing misinformation? Has the
11 administration been in touch with any of these
12 companies, and are there any actions that the
13 federal government can take to ensure their
14 cooperation, because we've seen from the start
15 there's not a lot of action on some of these
16 platforms? Correct?

17 A. That is the question that was asked
18 to Ms. Psaki, correct.

19 Q. And she responds: Sure. Well,
20 first, we are in regular touch with these social
21 media platforms, and those engagements typically
22 happen through members of our senior staff but also
23 members of our COVID-19 team. Correct?

24 A. That is what Jen Psaki answers,
25 correct.

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1 Q. Yeah. Do you know who she's
2 referring to when she talks about being in regular
3 touch with social media platforms and those
4 engagements typically happening through members of
5 our senior staff?

6 A. I do not.

7 Q. So you don't know what human being
8 she's talking about who are regularly in touch with
9 social media platforms?

10 A. I do not.

11 Q. Is -- is she possibly talking about
12 Dr. Murthy?

13 A. Is it technically possible? I
14 suppose. But I don't -- I don't think so.

15 Q. And was he in regular touch with
16 social media platforms by July 15th of 2021, to
17 your knowledge?

18 A. Not to my knowledge.

19 Q. How about Rob Flaherty? Do you know,
20 was he in regular touch with social media
21 platforms?

22 A. I don't know.

23 Q. She refers to members of our senior
24 staff. Do you know who that is?

25 A. I don't know. I think we discussed

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1 Andy Slavitt already having clearly a connection
2 with Nick Clegg, so that's a member of the senior
3 COVID-19 team.

4 Q. Do you know of anyone else who she
5 might be referring to?

6 A. I do not.

7 Q. How about also members of our
8 COVID-19 team who would be --

9 A. Yeah. They --

10 Q. -- in touch with social media
11 platforms? Go ahead. Do you know who that is?

12 A. I -- I -- I do think that that would
13 probably have been Andy Slavitt, is my guess.

14 Q. Okay. So he would be both members of
15 our senior staff and members of our COVID-19 team?

16 A. Correct. Andy, I believe -- I'm not
17 positive, but his title was something like -- I
18 don't know if he was the -- I guess Jeff Zients is
19 technically the czar, getting back to our Russian
20 references from before. Jeff Zients ran the
21 COVID-19 team, but Andy was a very important member
22 of that team as well. Was considered a senior
23 staffer, and so I would assume it's Andy.

24 Q. How about Jeff Zients? Do you know
25 if he was talking to social media platforms at all?

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1 A. I don't know.

2 Q. Anyone else who she might be
3 referring to, to your knowledge?

4 A. I don't know.

5 Q. Okay. She goes on in the next
6 paragraph to say, in terms of actions, the first
7 one she lists is an increased disinformation
8 research and tracking within the Surgeon General's
9 office. Do you know what she's referring to?

10 A. I do not.

11 Q. So are you aware of any increase in
12 disinformation research and tracking at any phase
13 in the Surgeon General's office?

14 A. I am not aware. I think obviously
15 there was a research done by the policy team in the
16 creation of the advisory, so that's certainly the
17 research side of it, but I'm -- I'm not familiar
18 with any of -- any increase in tracking of -- of
19 disinformation.

20 Q. So you don't know what her basis was
21 for saying there's an increase in disinformation
22 research and tracking?

23 A. I don't -- my -- again, my only
24 thought, as I've already said, is that given the
25 preparation for the -- for the advisory certainly

1 was -- we did research. The team had to have done
2 -- done research to -- you know, that's our
3 standard business practice before we issue an
4 advisory, is to -- to -- to -- to research an
5 issue.

6 Q. Who did that research? I think you
7 mentioned the gentleman with a Russian name and
8 Kyla Fullenwider. Were they involved in that
9 research?

10 A. Yes. So as I've answered previously,
11 my understanding is Daniel had the -- the first pen
12 or was like the key -- key policy person working on
13 the advisory. So that's Daniel Tartakovsky. Kyla,
14 I believe, participated, and probably someone like
15 Tyiesha Short, who worked with Daniel on the policy
16 team were involved.

17 At that time in the office, Adam
18 Beckman managed Daniel. So it's possible that he
19 had some input. But I think Daniel was the -- was
20 one of the chief drivers of the drafting process.

21 Q. And he --

22 A. I think I already mentioned -- I
23 mentioned -- this is -- again, we discussed this
24 already before, but also Dr. Murthy certainly would
25 have -- and this is based on just our general

1 practice in the office. He would have seen the
2 drafts and would have signed off on the final
3 draft.

4 Q. And Jen Psaki goes on to say: We're
5 flagging problematic posts for Facebook that spread
6 disinformation.

7 Do you know what she's referring to?
8 Who is flagging problematic posts for Facebook?

9 A. I don't know.

10 Q. So are you aware of anyone in the
11 Surgeon General's office who's flagging problematic
12 posts for Facebook?

13 A. I'm not aware of anybody in the
14 Surgeon General's office who was flagging
15 problematic posts for Facebook.

16 Q. How about Kyla? Could she have done
17 that by communicating with the outside researchers
18 like Renee DiResta?

19 A. I -- I'm very doubtful of that. I
20 don't think Kyla would have represented that this
21 -- that was an ask from the Surgeon General's
22 office because we didn't -- there was no system set
23 up where we were either looking at reviewing or in
24 any way -- there had been no policy decision around
25 that. So I'd be hard pressed to -- to -- to guess

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1 that, but I don't know.

2 Q. Are you aware of any other federal
3 officials inside or outside the Surgeon General's
4 office who flagged problematic posts for Facebook?

5 A. I don't know.

6 Q. You just don't know whether there are
7 or there aren't?

8 A. I know that there aren't -- I don't
9 know of any of the Surgeon General's office who
10 flagged bad posts to for Facebook, and I -- I know
11 -- I know that I don't have knowledge of anyone
12 who's done it in the Surgeon General's office, and
13 I don't know of anyone else outside within the
14 administration that did it.

15 Q. You're not aware of anyone in the
16 Surgeon General's office, and you don't know if
17 there's anyone outside?

18 A. That's correct.

19 Q. Do you have any reason to believe or
20 suspect that anyone may have done it?

21 A. I know that Rob Flaherty was in touch
22 with Facebook, and so that would be the only
23 person. Given his role as digital director, he
24 might have been seeing content. That would be my
25 only -- my only guess.

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1 **Q. So you think Rob Flaherty may have**
2 **been flagging problematic posts for Facebook?**

3 A. I know that -- I know he was
4 certainly were very aware of misinformation posts.
5 So I that's the only other person I know who was
6 deeply looking at what -- the posts themselves.

7 **Q. What about the CDC? Are you aware of**
8 **the CDC, Centers for Disease Control, being**
9 **involved in flagging problematic posts?**

10 A. I am not aware of that.

11 **Q. Do you know Carol Crawford?**

12 A. Not off the top of my head.

13 **Q. Is the name familiar to you?**

14 A. Very vaguely.

15 **Q. How do you know of her?**

16 A. I -- I don't. I'm just saying the
17 name sounds vaguely familiar. I've also been
18 living in DC for 14 years now, so it's possible
19 I've -- names start to all sound alike.

20 **Q. Let me scroll down to the next page.**
21 **It's still Jen Psaki talking, and she says: There**
22 **are also proposed changes that we have made to**
23 **social media platforms, including Facebook, and**
24 **those specifically are four key steps. Do you see**
25 **that?**

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1 A. I do.

2 Q. Were you aware at this time frame of
3 anyone in the federal government proposing changes
4 to social media platforms, including Facebook?

5 A. I was not.

6 Q. So you're not aware of any
7 communications between anyone in the federal
8 government prior to the health advisory where these
9 kinds of recommendations were made to any social
10 media platform?

11 A. I was not aware, no.

12 Q. Her first point is one that they
13 measure and publicly share the impact of
14 misinformation on their platform, correct?

15 A. That is what the document says,
16 correct.

17 Q. And that kind of echoes what Surgeon
18 General Murthy has said and what -- in the health
19 advisory, and I think you said was discussed in
20 some of the calls, right?

21 A. That's correct.

22 Q. But you're not aware of anyone
23 separately proposing those changes to Facebook?

24 A. I am not.

25 Q. Second, she goes on to say: We have

1 recommended/proposed that they create a robust
2 enforcement strategy that bridges their properties
3 and provides transparency about the rules.

4 Do you know what robust enforcement
5 strategy was proposed to social media platforms?

6 A. I do not.

7 Q. Do you know if anyone in the federal
8 government proposed anything like that to them
9 prior to this July 15th date?

10 A. I am not aware of anything.

11 Q. She goes on to say in reference to
12 this: There's about 12 people who are producing 65
13 percent of anti-vaccine misinformation on social
14 media platforms. All of them remain active on
15 Facebook, despite some even being banned on other
16 platforms, including ones that Facebook owns.
17 Correct?

18 A. That is what the statement says,
19 correct.

20 Q. And that's reference to the so-called
21 Disinformation Dozen, right?

22 A. It would appear so, yes.

23 Q. And I remember you said earlier that
24 you had a briefing from what you think could have
25 been the CCDH, the Center for Countering Digital

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1 Hate, about the Disinformation Dozen, right?

2 A. That's correct.

3 Q. Were you aware that -- of any federal
4 officials prior to this July 15th press conference
5 calling for social media companies to take action
6 against the Disinformation Dozen?

7 A. I was not.

8 Q. Are you aware of any proposal for a
9 robust enforcement strategy that would stop --

10 A. I'm not --

11 Q. -- from that --

12 A. I'm not --

13 Q. -- disinformation?

14 A. I'm not aware of that.

15 Q. Then Jen Psaki goes on to say:
16 Third, it's important to take faster action against
17 harmful posts. Right?

18 A. That is what the document says,
19 correct.

20 Q. She talks about how information
21 travels quickly, and Facebook needs to move more
22 quickly to remove harmful, violative posts. Posts
23 that will be within their policies for removal
24 often remain up for days. Right?

25 A. That is what the document says,

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1 correct.

2 Q. So she's calling on Facebook to move
3 more quickly to remove content, to remove harmful
4 posts, correct?

5 A. I think she's saying to remove those
6 harmful posts that are already violating the
7 policy, the harmful, violative posts.

8 Q. Right. She's asking for harmful,
9 violative posts that violate Facebook's policies to
10 be taken down more quickly, right?

11 A. That is what she says, correct.

12 Q. Is that consistent with what the
13 health advisory calls for, for faster action to
14 take down harmful posts?

15 A. I don't recall that level of
16 specificity within the advisory, but the --
17 certainly the advisory overall has recommendations
18 for technology companies, including -- I think
19 there's more vague language of sort of that that
20 says something to the extent of move faster or --
21 or, you know, more aggressive, but I don't think it
22 -- this level of specificity. Like too many days
23 is certainly not on there.

24 Q. Okay. But there is a call for more
25 aggressive action that could include moving more

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1 **quickly to remove harmful violative posts?**

2 A. I think that's a specific
3 interpretation. That's not -- I don't think that's
4 -- that's not in the document, to my knowledge, but
5 if you have the document and you can show it to me,
6 I'm happy to take a look.

7 Q. Well, let me ask you this. Is that
8 **something that ever came up in the follow-up calls**
9 **is, hey, you know, can there be faster action to**
10 **remove, you know, kind of harmful posts that are**
11 **getting a lot of spread? Like if a Disinformation**
12 **Dozen post goes viral, can you guys get it taken**
13 **down faster? Were there any conversations like**
14 **that in your follow-up calls?**

15 A. Not -- not on -- not from our side.
16 I think when we were setting up the meeting with --
17 when the meeting -- because the meeting team with
18 Facebook and Payton occurred after this, I think
19 there's an e-mail from Payton to me saying we're
20 understanding that these are your four asks; is
21 that correct? And I believe I responded to her and
22 said that's actually not what we were going to talk
23 about. We were going to talk about the advisory
24 more generally.

25 So we weren't -- we weren't sort of

1 continuing on that -- on that. I think Facebook,
2 at first, was inquiring as to whether or not, you
3 know, that was coming from our office.

4 Q. I see. And so did Facebook then
5 report back to you with information about how they
6 had been taking faster action to remove harmful
7 posts?

8 A. I don't recall.

9 Q. Did they report back to you about
10 specific actions taken against the Disinformation
11 Dozen?

12 A. I don't think so, but I don't recall.

13 Q. Do you have any other knowledge of
14 what might be the possible basis for Ms. Psaki's
15 statements that we've gone over other than what
16 we've already asked you?

17 A. I don't.

18 Q. You don't know what her basis was for
19 saying all those things?

20 A. I do not.

21 Q. Let's pull up Exhibit 11. And now
22 this actually is the health advisory we've been
23 talking about, right?

24 A. Right. Yes.

25 Q. Issued on July 15th of 2021?

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1 A. Yes.

2 Q. We talked about this quite a bit. So
3 I want to jump ahead down to page 5 of the
4 document. You see how the -- in the text I've
5 highlighted on shared screen, the health advisory
6 says: Product features built into technology
7 platforms have contributed to the spread of
8 misinformation. For example --

9 A. Can --

10 Q. Go ahead.

11 A. Sir, can -- can you give me a moment
12 to read a little bit more of this page?

13 Q. Sure.

14 A. Thank you. Okay. Thank you.

15 Q. So it says: Product features built
16 into technology platforms have contributed to the
17 spread of misinformation. Correct?

18 A. That is what the document says,
19 correct.

20 Q. And it says that social media
21 platforms incentivize people to share content to
22 get likes, comments, and other positive signals of
23 engagement, correct?

24 A. That is what the sentence says,
25 correct.

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1 Q. And thus, it rewards engagement
2 rather than accuracy, right?

3 A. That is what the statement -- the
4 sentence says, correct.

5 Q. So is there a suggestion or proposal
6 from the Surgeon General's office that social media
7 companies ought to change their product features to
8 slow the spread of -- of inaccurate information?

9 A. I think when you go to the bottom,
10 what it says is, you know, additional research is
11 needed to better understand how people are exposed
12 to and affected by misinformation and how this may
13 vary across subpopulations based on facts such as
14 race, ethnicity, socioeconomic status --

15 (A discussion was held off the
16 record.)

17 THE WITNESS: Subpopulations based on
18 factors such as race, ethnicity, socioeconomic
19 status, education, age, sexual orientation, gender
20 identity, cultural, and religious practices,
21 hobbies and interests and personal net worths.

22 So I think Dr. Murthy is describing
23 the current product and ultimately saying that we
24 need to understand more about how this is affecting
25 our -- the population, and that would potentially

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1 lead to different sorts of ameliorative policy
2 goals for potential product changes.

3 Q. (BY MR. SAUER) So you think -- is he
4 saying -- he's saying more research is needed. Is
5 he also saying there should be product changes?

6 A. I don't see that in there, sir. Can
7 you point me to it?

8 Q. Page 12, what technology platforms
9 can do, do you see that on the shared screen?

10 A. Yes. And I now have it up on my
11 screen as well.

12 Q. And you see how the first
13 recommendation is assess the benefits and harms of
14 products and platforms and take responsibility for
15 addressing these harms?

16 A. Yes. I see that.

17 Q. And it says: In particular, it --
18 make meaningful, long-term investments to address
19 misinformation, including product changes, correct?

20 A. That is correct.

21 Q. And he recommends redesigning
22 recommendation algorithms to avoid amplifying
23 misinformation, build in friction such as
24 suggestions and warnings to reduce the sharing of
25 misinformation, and make it easier for users to

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1 **report misinformation, correct?**

2 A. That's correct.

3 **Q. And so those are all action items**
4 **above and beyond additional research that would --**
5 **that would slow the spread of misinformation on the**
6 **platforms, right?**

7 A. Right. So now we are in the What
8 Technology Platforms Can Do section. I think we
9 were still up just in the summary section. So this
10 is -- you're asking me if that previous section
11 talked about product changes. It did not. This
12 section does.

13 **Q. So this section of the health**
14 **advisory does call for product changes, correct?**

15 A. It -- it -- it -- I -- I guess the
16 term it's using, yeah. It asks -- it says -- it
17 suggests that these are things that they can do.
18 They could do a product change. It's a
19 recommendation.

20 **Q. Yeah. And they recommend redesigning**
21 **algorithms and building in frictions and actually**
22 **make it easier for users to report misinformation,**
23 **right?**

24 A. That is a -- exactly what it says.

25 **Q. And that would be a method for users**

1 to flag problematic posts so that they could be
2 reviewed for content modulation, policy violations,
3 right?

4 A. Yes. That's a fair reading of that
5 sentence, I think.

6 Q. Yeah. And then lower down on the
7 page, same column talks about how a social media
8 platform should strengthen the monitoring of
9 misinformation, correct?

10 A. Can you give me a second to read this
11 page, sir?

12 Q. Yeah. I -- I don't think you need to
13 read this whole document. I'm just asking you to
14 look at this one.

15 A. Oh, yeah. Yeah. I know, but I want
16 to understand the context. Okay. Sir, I'm ready.

17 Q. Strengthen the monitoring of
18 misinformation, correct? That's another
19 recommendation?

20 A. Yes.

21 Q. And it says: Platforms should
22 increase staffing of multilingual content
23 moderation teams. Correct?

24 A. That is what the document says.

25 Q. The idea is putting more resources

1 **into the content modulation teams that detect the**
2 **misinformation and apply content modulation**
3 **policies to it, correct?**

4 A. This one right -- when I read that
5 one, it's talking about, again, the content
6 moderation -- I think you said "modulation," sir.
7 So it's -- it's -- it's saying you want more
8 multilingual moderation teams so that if there's --
9 if there's misinformation being spread in one
10 language and one community is -- is being
11 disproportionately harmed, we want to make sure
12 that we're being -- you know, to find the harm in
13 multiple languages. So this is a common problem
14 that can occur in -- in -- in policy areas where if
15 we don't have something in multiple languages, it
16 might be hard to reach certain communities.

17 **Q. And so the idea is have more staff on**
18 **the social media platform side to be able to**
19 **identify misinformation in non-English-speaking**
20 **communities?**

21 A. Absolutely.

22 **Q. Yeah. And the idea there would be**
23 **able to detect it and stop its spread in those**
24 **communities who may be being, as you said,**
25 **disproportionately harmed?**

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1 A. That is a correct. That is, I think,
2 what the -- what the paragraph is trying to get at.

3 Q. Yeah. And later in the paragraph, it
4 says: Platforms should also address misinformation
5 live streams which are more difficult to moderate
6 due to their temporary nature and use of audio and
7 video. Right?

8 A. That is what the sentence says,
9 correct.

10 Q. And moderating misinformation usually
11 involves taking one of those actions that we talked
12 about earlier, like, you know, applying a label to
13 it, removing a post, deamplifying it, so forth,
14 right?

15 A. Those are examples, yes.

16 Q. Yeah. So this -- this advisory is
17 calling for the platforms to do more moderation in
18 a particular area; that is, live stream with video
19 and audio content, correct?

20 A. It flags that live streams are a place
21 where -- it's recognizing it's difficult to
22 moderate is what I think it says, and it should
23 create -- it should also create a plan to address
24 how to deal with moderation and live streams, yes.

25 Q. Yeah. In other words, to increase

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1 moderation of misinformation that's currently not
2 detecting because it's, you know, done through
3 video feeds, right?

4 A. Yes.

5 Q. And then underneath that, it talks
6 about prioritize early detection of misinformation
7 superspreaders and repeat offenders, right?

8 A. That's correct.

9 Q. So the recommendation is the social
10 media platform should make it a priority to the
11 identify the superspreaders and the repeat
12 offenders, right?

13 A. Correct.

14 Q. And not just that. It's to impose
15 clear consequences for accounts that repeatedly
16 violate platform policies, right?

17 A. That is what the document says,
18 correct.

19 Q. And what it says implies not just
20 removing posts, but to impose clear consequences
21 for accounts that --

22 A. I don't think it --

23 Q. -- that violate policies, right?

24 A. I don't think it implies that. I
25 think it says that explicitly.

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1 Q. Right. It explicitly says that there
2 should be consequences for the account, not just
3 the offending post, right?

4 A. It says impose clear consequences for
5 accounts that repeatedly violate platform policies.

6 Q. And clear consequences for repeat
7 violation of policies usually includes things like
8 issuing strikes against them, suspensions, you
9 know, and -- and sometimes permanent deplatforming,
10 correct?

11 A. Those are examples of -- of current
12 policies in place by social media companies,
13 correct.

14 Q. Skipping ahead to page 16, at the
15 conclusion, there's a reference to institutions
16 recognizing that this issue --

17 A. Sir, may I have a moment again to
18 read this page?

19 Q. Sure. It's the one marked Where We
20 Go From Here.

21 A. Yeah. I'm -- I've got it. Thank you
22 so much. Okay. I'm ready, sir.

23 Q. Here, on page 16, the advisory says:
24 We need institutions to recognize that this issue
25 related to misinformation is their moral and civic

1 **responsibility and that they are accountable.**

2 **Right?**

3 A. That is what the sentence says,
4 correct.

5 Q. **So calling for accountability for**
6 **social media platforms is something that's kind of**
7 **a word that's repeatedly used both in the advisory**
8 **and the Surgeon General's public remarks, right?**

9 A. The word "accountable" was used in
10 the press conference, and it's definitely used here
11 in the advisory.

12 Q. **Why don't we look at Exhibit 12.**
13 **Now, the health advisory was actually launched not**
14 **from the White House press conference but in a --**
15 **an event at Stanford, right?**

16 A. I don't now recall what the order of
17 operations was, whether the Stanford event happened
18 before the press conference, but it was all part of
19 the launch day, yes. I think it was -- I would
20 call it a launch day as opposed to -- launch counts
21 as like that morning. The embargo is done. We
22 sent it out to reporters. So it's a multitiered
23 launch.

24 Q. **There's two -- at least two events**
25 **that day. There's a White House press conference,**

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1 and then there's Dr. Murthy giving remarks through
2 the Stanford Internet Observatory, right?

3 A. That is correct.

4 Q. Yeah. And the Stanford Internet
5 Observatory, that's -- is that where Renee DiResta
6 is?

7 A. I know that Renee DiResta was part of
8 this event. I'm -- I think that's where she is,
9 but I'm not positive.

10 Q. And the Stanford Internet Observatory
11 is also something -- part of something called the
12 Virality Project, right?

13 A. I don't -- I've never heard of that
14 term.

15 Q. So V-I-R-A-L-I-T-Y, Virality Project,
16 does that ring a bell to you?

17 A. It does not.

18 Q. So you're not aware of the Surgeon
19 General's office being directly involved in
20 something called the Virality Project?

21 A. I am not.

22 Q. Now this in exhibit, you've got here,
23 includes the kind of cover page of the post on the
24 Stanford Internet Observatory with a YouTube video
25 of Dr. Murthy's public remarks. And then attached

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1 to that is an audio transcription done by a court
2 reporter of excerpts from those remarks. Can you
3 see that if you scroll through?

4 A. I -- I can see that, yes.

5 Q. I want to skip ahead to page 5.

6 Dr. Murthy says in this kind of Stanford --

7 MS. CHUZI: Counsel -- Counsel, I'm
8 sorry to interrupt. The document is not up on the
9 screen.

10 MR. SAUER: Oh, I'm sorry.

11 Q. (BY MR. SAUER) Can you see it now?

12 A. Yes. Thank you. May I have a moment
13 to read this page, sir?

14 Q. Sure. Actually, why don't you read
15 the next page, page 6.

16 A. Not this page, sir? Okay.

17 Q. Yeah. Do page 6.

18 A. Okay.

19 Q. See the sentence I've highlighted on
20 the shared screen where Dr. Murthy says: We're
21 asking technology companies to operate with greater
22 transparency and accountability so that
23 misinformation doesn't continue to poison our
24 sharing platforms, right?

25 A. Yes. I see that.

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1 Q. So there's two words that repeated
2 here. One is accountable and the other is poison,
3 right?

4 A. Those are, yes, words we've discussed
5 before.

6 Q. Yeah. And so he's using those words
7 again in his second event announcing this. And I
8 take it you -- is that correct?

9 A. Correct.

10 Q. Yeah. He goes on to say: We know
11 the government can play an important role too.

12 Do you know what role of the
13 government he's referring to?

14 A. He, I think, highlights that bringing
15 stakeholders to together with urgency around a
16 common vision for a healthy information environment
17 as well as supporting community organizations that
18 are trying to get accurate information to the
19 community members. So I believe that's what he
20 means, that the government can help bring together
21 stakeholders, sort of what I would call the
22 convening power of a bully pulpit. So you're able
23 to bring parties together.

24 Q. So and those stakeholders, I assume,
25 would include social media platforms. Right?

1 A. I think that's fair to think they're
2 -- they are stakeholders that you would want to
3 bring together, yes.

4 Q. Yeah. And you'd want them to share
5 the urgency to have a common vision for healthy
6 information environment, right?

7 A. You would want all your stakeholders
8 to have that, yes.

9 Q. Let's turn ahead to page 9. Are you
10 there?

11 A. I am there, yes. Can I have a moment
12 to read this page, sir.

13 Q. Sure.

14 A. Great. Go ahead.

15 Q. In the middle of the page, Dr. Murthy
16 says: We know technology companies have a really
17 important role. They must step up and play to slow
18 the spread of misinformation on their sites where
19 that's by either sharing data with people and
20 researchers about what interventions they're making
21 and the impact that that's having, right?

22 A. That is what the sentence says,
23 correct.

24 Q. So he -- he provides an explanation
25 to kind of data sharing there. It's data sharing

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1 that would allow researchers to assess what
2 information -- what interventions they're making
3 and the impact that they're having, right?

4 A. That is what the sentence says,
5 correct.

6 Q. So the purpose of the data sharing is
7 so that outside people come in and kind of assess
8 how well they're doing with their own internal
9 policies to combat the spread of misinformation,
10 right?

11 A. That's -- yes.

12 Q. And he also refers to changing
13 algorithms and making other alterations to identify
14 the misinformation early and slow it spread, right?

15 A. Correct. That's what he says.

16 Q. And he goes on to refer to that as
17 steps that all of us can take, right?

18 A. That's correct.

19 Q. By all of us, that includes social
20 media platforms, right?

21 A. Yeah. That's in keeping with his
22 all-of-society approach.

23 Q. Yeah. Skip ahead two pages to the
24 last page here. It's called page 11.

25 A. Great. Give me one moment, sir. I'm

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1 ready.

2 Q. Okay. Here, toward the bottom of
3 page, if you look at ahead of page 10, it's
4 responding to a question by Renee DiResta, who we
5 talked about before, right?

6 A. Yes.

7 Q. Yeah. And what he says here at the
8 bottom of page 11 is: I'm optimistic we can make
9 progress in this area, and myself, my team, we're
10 committed to working with you, Renee, with others,
11 you know, who we've been, you know, partnered with
12 over the last many months. Do you see that?

13 A. I do.

14 Q. Were you aware that the Surgeon
15 General's office was partnered with Renee DiResta
16 and others over the last many months?

17 A. I -- I certainly know that Renee
18 DiResta would have been part of the planning
19 process for the launch event. So that's -- that
20 might be one of the definitions of partnership.

21 Q. Was she planning the launch event for
22 many months?

23 A. I don't know.

24 Q. This was July 15th of 2021. Surgeon
25 General Murthy had been Surgeon General since

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1 **January of 2021, correct?**

2 A. I don't think so. I think he was
3 confirmed in February, but I'm not -- I don't think
4 he got confirmed in January. You may be correct.
5 I -- I don't recall the date of his confirmation.

6 **Q. But in any event, something like**
7 **February to July, what partnership was there**
8 **between Renee DiResta and the Stanford Internet**
9 **Observatory and the Surgeon General's office for**
10 **those many months prior to July 15th 2021?**

11 A. I don't know.

12 **Q. So you don't know what he's referring**
13 **to about how they partnered with them over the last**
14 **many months?**

15 A. I don't know. My guess would be that
16 Renee may have been one of the subject matter
17 experts consulted in the creation of the advisory,
18 but that's just an educated guess.

19 **Q. So you don't know for sure whether**
20 **she had input in the advisory?**

21 A. I do not.

22 MR. SAUER: That's a breaking point,
23 and I see it's 1:15 there. Do you want to take a
24 lunch break now? I get a thumbs up from the
25 witness on that.

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1 MS. CHUZI: That sounds great.

2 MR. SAUER: Okay. Let's do it.

3 THE VIDEOGRAPHER: I'm sorry. Did
4 you want to go off now or did you have one more?

5 MR. SAUER: Go off the record,
6 please.

7 THE VIDEOGRAPHER: Sorry. The time
8 is 12:19 p.m. We are off the record.

9 (A lunch break was taken.)

10 THE VIDEOGRAPHER: The time is 12:59
11 p.m. We are back on the record.

12 Q. (BY MR. SAUER) Mr. Waldo, I just
13 e-mailed your counsel Exhibits 14, 16, 17, 18, and
14 19. Those ought to hit the inbox soon. And I'd
15 like to pull up Exhibit 14 now and ask you to take
16 a look at it.

17 And you can see on the shared screen,
18 it's a New York Times article on July 16th, 2021
19 reporting on President Biden's comment about --
20 Facebook quote, "They're killing people."

21 Do you see that in the headline,
22 "They're killing people"?

23 A. I do. I -- I see the headline.

24 Q. The part about this that I want to
25 ask you about is here on the second page, there's

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1 **discussions in meetings between administration**
2 **officials and -- and -- and social media platforms**
3 **here on the second page of this article in the area**
4 **I've highlighted.**

5 **Do you see that? It's directly below**
6 **the picture of Surgeon General Murthy and Jen**
7 **Psaki. Do you see that highlighted text?**

8 A. We're still waiting for the document
9 to come through over e-mail here. I can see it on
10 the screen, but I'd like an opportunity to review
11 the article.

12 Q. **Do you want to start by looking at**
13 **this blue text that's highlighted --**

14 A. Would you mind just scrolling up so I
15 can see the top of the article, sir?

16 Q. **Yeah, sure.**

17 A. Thank you very much. Can you stop
18 there, sir? Sorry. Can you scroll back up? Thank
19 you. Can you stop there, sir, please? I'll let
20 you know when you can scroll down. Sorry. Now I
21 have a copy of it in front of me, sir, so I'll go
22 ahead and take a look at that.

23 Q. **Okay. And again, I think that my**
24 **questions are going to relate to this blue**
25 **highlighted text here. I don't think it's**

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1 necessary for you to read the entire article. If
2 it seems like to you, you need to read the whole
3 article while I'm asking questions, I'm going to
4 ask you to let you (sic) know, but I'm going to go
5 ahead and ask questions. If you're going to read
6 the entirety of every single document --

7 A. I -- I -- I'm trying to --

8 Q. If I may finish.

9 A. Sir, I'm just --

10 Q. If -- if I may finish my comment. If
11 you're going to read --

12 A. Sorry, sir.

13 Q. -- the entirety of every single
14 document I give you, that's going to take a long
15 time and we're going to ask to go extra time. I'm
16 going to have the videographer start timing the
17 amount of time you spend to review it. I think
18 this will go quicker if we just look at the area
19 I'm highlighting. If you think you need more
20 context, let me know when the question comes up.
21 I'm not asking you to read the entirety of every
22 single document that I hand you. Is that clear?

23 A. I understand that, sir. I'm just
24 trying to get a overall sense of the article. I'm
25 not trying to read the entire thing, sir.

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1 Q. Okay.

2 A. I don't think -- I don't think that's
3 unreasonable.

4 Q. Right here on the second page, in the
5 blue highlighted text, there's a quote from Jen
6 Psaki where she says: We've raised for them in our
7 direct channels of which every administration has
8 always had with every social media platform.

9 Do you know what direct channels Jen
10 Psaki's referring to between -- are you aware of
11 direct channels between every administration and
12 every social media platform?

13 A. I do not know what she's referring
14 to, sir.

15 Q. Are you aware of direct channels of
16 communications between the Biden administration and
17 soc- -- every social media platform?

18 A. I'm not familiar with what she's
19 referring to, sir.

20 Q. In the next paragraph, it says:
21 Since January, Senior White House officials,
22 including the Surgeon General, Dr. Vivek Murthy,
23 have been in talks with the social media company to
24 stop the spread of false stories about vaccination
25 side effects and other harms. Correct?

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1 A. That's what the article says, sir,
2 yes.

3 Q. So the article reports on July 16th
4 of 2021 that since January of 2021, there have been
5 Senior White House officials, including the Surgeon
6 General, that have engaged in talks with social
7 media -- with -- with the social media company,
8 here, referring to Facebook, correct?

9 A. This is what the New York Times is
10 reporting, sir, yes.

11 Q. Are you aware of any meetings that
12 occurred between Surgeon General Murthy and
13 Facebook since January of 2021 to July of 2021?

14 A. Only the ones you and I have already
15 talked about, sir. So that -- you showed me the --
16 the meeting between Andy Slavitt, Dr. Murthy, and
17 Nick Clegg that -- I recall that was in May.
18 That's the only one I'm familiar with before I
19 arrived.

20 Q. The only one you're familiar with is
21 that May 25th, 2021 introductory meeting between
22 Nick Clegg, Andy Slavitt, and Dr. Murthy, right?

23 A. Since January. We also discussed,
24 sir, the potential transition -- the transition
25 call. So I don't know when that would have

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1 occurred, but that would have been sometime between
2 the election day November of 2020 and January 20th
3 of 2021.

4 Q. And would that have been called to
5 quote, stop the spread of false stories about
6 vaccination side effects and other harms?

7 A. I'm sorry.

8 Can you repeat the question?

9 Q. I'm just reading from how the New
10 York Times reporter describes those talks with
11 social media -- social media company, Facebook, to
12 stop the spread of false stories about vaccination
13 side effects and other harms. Is --

14 A. I'm not -- I'm not familiar with
15 those calls before I started.

16 Q. Gotcha.

17 Does that accurately describe your
18 understanding of that introductory call between
19 Nick Clegg, Andy Slavitt, and Dr. Murthy on May
20 25th of 2021?

21 A. It does not.

22 Q. So you think -- if it's -- if this
23 reporting is accurate, it's talking about some
24 other meeting other than the May 25th, 2021
25 meeting, correct?

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1 A. If the report is accurate, that --
2 that's a fair guess.

3 Q. Yeah. Next paragraph says: There's
4 been repeated requests from the White House, but
5 Facebook has not shared even basic data on how much
6 vaccine misinformation exists and if the company's
7 efforts to stop its spread are working. Correct?

8 A. That is -- you read that correctly.

9 Q. Are you aware of efforts or talks
10 involving Surgeon General Murthy prior to July 16th
11 of 2021 to request basic data on how much vaccine
12 misinformation exists and whether Facebook's
13 efforts to stop its spread are working?

14 MS. CHUZI: Objection. Compound.

15 THE WITNESS: Can you clarify the
16 question, sir?

17 Q. (BY MR. SAUER) Are you aware of any
18 of these talks that are described here in this
19 paragraph, talks where there were repeated requests
20 from the White House, but Facebook refused to share
21 even basic data on how much vaccine misinformation
22 exists and whether its efforts to stop its spread
23 are working?

24 A. Again, the only -- the only meeting
25 I'm aware of are the ones you've shown me, the May

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1 Nick Clegg and then the one I already described to
2 you that we previously discussed, that happened
3 during transition. And I think we described that
4 that meeting, during the transition, as covering --
5 that the reach -- understanding the research and
6 data side of the reach of health misinformation.

7 Q. Okay. So you're not aware of any
8 meetings between the beginning of the
9 administration in January 20th of 2021 and July
10 16th of 2021 that would match the description
11 provided in this New York Times article, right?

12 A. That's correct.

13 Q. There's a reference to CrowdTangle.
14 It says: When administration officials presented
15 data from CrowdTangle, a content-tracking tool
16 owned by Facebook, that showed vaccine
17 misinformation was soaring, Facebook officials
18 dismissed its accuracy, correct?

19 A. That is what the reporting in the New
20 York Times article says, correct.

21 Q. Are you aware of any meeting
22 regarding the Surgeon General staff where that was
23 discussed?

24 A. I am not aware.

25 Q. And then they go on to say: In

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1 another meeting with Dr. Murthy, officials at
2 Facebook noted that it had tried to get influencers
3 with big audiences to promote vaccination as an
4 apparent push against misinformation. Correct?

5 A. That is what the article reports,
6 correct.

7 Q. Do you know when that meeting
8 occurred with Dr. Murthy, where it --

9 A. I don't --

10 Q. -- talked about using influencers to
11 promote vaccination?

12 A. I don't know if or when that meeting
13 occurred.

14 Q. And if this reporting is accurate, it
15 doesn't meet the description of any meeting that
16 we've talked about yet today, correct?

17 A. That's correct.

18 Q. And in particular, it doesn't meet
19 the description of the only meeting prior to July
20 16th, 2021, that was identified in the
21 interrogatory responses involving Dr. Murthy,
22 correct?

23 A. Correct.

24 Q. It goes on to say: The person
25 familiar with the -- sorry. It goes on to say: In

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1 that meeting, Dr. Murthy angrily said that while
2 the company promoted its efforts to encourage
3 vaccination, it did not do enough to defend against
4 bad information. Correct?

5 A. That is what the report in the New
6 York Times article says, correct.

7 Q. And are you aware of any meeting that
8 meets that description prior to --

9 A. No, I --

10 Q. -- July 16th of 2021?

11 A. I am not.

12 Q. And certainly no such meeting was
13 disclosed in response to our interrogatories,
14 correct?

15 A. That is correct.

16 Q. Are you a -- do you recall Dr. Murthy
17 ever talking about getting angry with Facebook in a
18 meeting and angrily telling it that it doesn't do
19 enough to defend against bad information?

20 A. No, I have no recollection of
21 Dr. Murthy ever describing this. And frankly, I'm
22 doubtful that -- I don't -- I worked with
23 Dr. Murthy for over a year and a half and I've
24 never seen him get angry or even express anger,
25 frustration in -- in any way that would be

1 noticeable. So I'm -- I'm -- I'm -- I'm skeptical
2 of this reporting.

3 **Q. Okay. And then it goes on to say:**
4 **In one tense meeting in the late spring, according**
5 **to the person familiar with the matter, a Facebook**
6 **official responded defensively to Dr. Murthy, "How**
7 **do you know if your efforts are working?" Correct?**

8 MS. CHUZI: Objection.
9 Mischaracterizes the evidence.

10 **Q. (BY MR. SAUER) Is that what that**
11 **article says?**

12 A. The ar- -- the -- the -- the -- the
13 line that you've read says: In one tense meeting
14 in the late spring, according to the person
15 familiar with the matter, a Facebook official
16 responded defensively, "How do you know if your
17 efforts are working?" I don't know to whom they
18 said that.

19 **Q. Well, the immediately preceding**
20 **sentence refers to one person, Dr. Murthy, right?**

21 A. Another meeting with Dr. Murthy
22 officials, yes, it does.

23 **Q. So are you aware of Dr. Murthy having**
24 **a tense meeting in late spring with Facebook?**

25 A. I am not.

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1 Q. And that would be late spring of
2 2021, correct?

3 A. That is correct.

4 Q. And the Facebook official became
5 defensive in that meeting according to the
6 reporting?

7 A. That is what the New York Times
8 article reports.

9 Q. And again, that does not meet the
10 description of the May 25th, 2021 meeting disclosed
11 in the interrogatory responses, correct?

12 A. It does not. And also, I -- I -- I
13 just -- I think that in the rollout of the -- of
14 the advisory, I would have been informed about this
15 meeting in preparation to meet with Facebook
16 officials. So I -- I'm not familiar with it and
17 I'm not sure if it happened.

18 Q. Okay. So you don't know whether or
19 not it happened based on this reporting?

20 A. That's correct.

21 Q. Let's look at Exhibit 16. And again,
22 I -- I welcome you to familiarize yourself with it,
23 but I'm not asking you to read the whole thing.

24 A. Yep.

25 Q. You see here at the top -- can you

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1 **see on the screen share?**

2 A. I can see on the screen share, yes.

3 Thank you.

4 Q. And here's a July 21st, 2021 e-mail
5 from Payton Itheme of Facebook to you and Kyla
6 Fullenwider, right?

7 A. That's correct.

8 Q. So this would have been five days
9 after that -- I think you described it as sad-faced
10 July 16th meeting with Facebook that was the
11 rollout meeting.

12 That happened after the rollout,
13 right?

14 A. I described that as Facebook's -- the
15 Facebook folks who were on the -- with the call had
16 sad faces, correct.

17 Q. Yeah. In the first paragraph here,
18 Payton says: Hi, Eric and Kyla. Thank you again
19 for reaching out and providing more context to the
20 ongoing discussions around the Surgeon General's
21 recent announcement. We wanted to follow up with
22 you on a few questions you asked in the meeting
23 focused on CrowdTangle, data on the online
24 interventions, and Facebook's borderline content
25 policies. Correct?

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1 A. That is what the e-mail says,
2 correct.

3 Q. Is she referring to the July 16th
4 meeting in which you provided more context or was
5 there some other meeting between the 16th and the
6 21st?

7 A. It would have to be the meeting on
8 the 16th.

9 Q. Okay. And I think you testified
10 earlier that you couldn't remember specifically
11 what was discussed in this meeting. Does her --

12 A. I -- I --

13 Q. Go ahead.

14 A. I think I mentioned that I think Kyla
15 asked some questions about CrowdTangle.

16 Q. Yeah.

17 Does this help you remember what kind
18 of questions she asked? She says -- she -- she:
19 Facebook wants to follow up with you on a few
20 questions you asked focusing on CrowdTangle, data
21 on the online interventions, and Facebook's
22 borderline content policies.

23 A. I think it's a fair reading of this
24 e-mail that Kyla asked questions about CrowdTangle,
25 those interventions, and their -- their policies.

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1 Q. So on the CrowdTangle issue, she has
2 bullet points here that say things like: Can
3 confirm no plans to wind down or change the ability
4 of people that access CrowdTangle. A few months
5 ago, the team moved management of CrowdTangle from
6 the partnerships team.

7 Does that -- do these bullet points
8 jog your memory as to what Kyla asked about
9 CrowdTangle at all?

10 A. I think -- I'm trying to recall.
11 Kyla may have asked, you know, whether or not there
12 was -- people were being removed or the ability of
13 researchers to use CrowdTangle was being taken
14 away. So I think -- I think that may have been a
15 question she asked.

16 Q. Looking up above, the second thing
17 that she's following up with is data on the online
18 interventions.

19 Do you know what the online
20 interventions were that were discussed in the July
21 16th meeting with Facebook?

22 A. I do not.

23 Q. Does this ring a bell here where she
24 gives these bullet points where she talks about:
25 Interventions we have put into place during

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1 COVID-19, and it says: Some of which specifically
2 create friction in how people consume information?

3 A. I am reading these and I see that
4 those are clearly responses to what they're doing
5 to create friction. So that must have been in
6 response to a question Kyla asked.

7 Q. So did Ky- -- do you remember Kyla
8 asking her what they were doing to increase
9 friction and how information shared?

10 A. I don't remember that. But I think
11 it's a fair reading of the e-mail to say she asked
12 that question.

13 Q. And their response includes:
14 WhatsApp forward limits. Cut highly-forwarded
15 messages by 70 percent. And then: Facebook
16 warning labels on fact-checked content and things
17 like that. Right?

18 A. Yes. You are reading the example
19 that Payton is providing.

20 Q. And then the last one is:
21 Informational labels on posts about COVID-19
22 vaccines and friction when someone goes to share
23 these posts on Facebook and Instagram. Correct?

24 A. That's correct. That's what the --
25 Payton's reply says.

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1 Q. Do you remember -- do you remember
2 Kyla asking about that? I take it these are all
3 ways to slow the spread of misinformation on
4 Facebook, friction and --

5 A. I think you --

6 Q. Yeah, go ahead.

7 A. No. I said I think you just asked
8 that and it -- this doesn't jog my recollection.
9 It's clear she asked a question about creating
10 friction and these are the responses that Payton
11 provided.

12 Q. Gotcha. And going up here, she --
13 the third area to -- that Payton is addressing is
14 questions about Facebook's borderline content
15 policies.

16 Did either you or Kyla raise that
17 with them?

18 A. I don't recall, but I think it's fair
19 to guess that Kyla, who was driving the
20 conversation, likely raised that if they're
21 responding to it.

22 Q. What are borderline content policies?

23 A. What a great question. I'm not sure
24 that I know.

25 Q. Okay. But going down here where she

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1 has a response, the -- the bottom third of this
2 first page where she has a sort of section
3 dedicated to COVID policies, and she says: We
4 remove COVID-19 content that contributes to the
5 risk of imminent physical harms, including numerous
6 false claims about the COVID-19 vaccine. Correct?

7 A. That is what the -- the -- the e-mail
8 says, correct.

9 Q. Then she reports: We permanently ban
10 pages, groups, and accounts that repeatedly break
11 our rules on COVID-19 misinformation. Correct?

12 A. That is what the e-mail says,
13 correct.

14 Q. And then the third thing she reports
15 is that: We also reduce the reach of posts, pages,
16 groups, and accounts that share other false claims
17 that do not violate our policies but may present
18 misleading or sensationalized information about
19 COVID-19 and vaccines. Correct?

20 A. That is -- that is a accurate reading
21 of her e-mail.

22 Q. So what she understood that she was
23 being asked in the July 16 meeting about borderline
24 content policies was the removal of contents,
25 permanently banning of groups and pages, and the

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1 **reducing of the reach of the posts, groups, and**
2 **pages that share misleading or sensationalized**
3 **content, correct?**

4 A. That --

5 MS. CHUZI: Objection. Calls for
6 speculation.

7 Q. **(BY MR. SAUER) Correct?**

8 A. I'm not -- I don't recall what Kyla
9 asked. The response indicates that it's about
10 COVID policies including removal, banning and
11 reducing the reach.

12 Q. **So do you remember Kyla asking any --**
13 **anything about content policies that would involve**
14 **removing posts, reducing the reach of potentially**
15 **harmful posts, and permanently -- or banning pages,**
16 **groups, and accounts?**

17 A. I do not.

18 Q. **So you -- you -- you -- you -- you**
19 **don't remember specifically what was discussed**
20 **about that in the July 16th meeting?**

21 A. I do not.

22 Q. **Do you remember why -- or do you have**
23 **an understanding why Facebook thought it was**
24 **important or thought it was worth reporting back to**
25 **you and Kyla about removing posts, permanently**

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1 banning pages, and reducing the -- the -- the reach
2 of posts, pages, and groups?

3 A. There was an e-mail from Payton, I
4 think to me and Kyla before the meeting, where she
5 was asking whether or not we wanted them to take
6 the steps articulated by Jen Psaki in the press
7 conference. Obviously, that's one of the things
8 that Ms. Psaki asked about in terms of the -- the
9 removal. So it's -- it's not impossible to assume
10 that she may have included this, not because Kyla
11 asked, but because it was something that had come
12 up in the press conference.

13 Q. Yes. Although, in the first -- as we
14 read before, in the first paragraph of this e-mail,
15 she says she's following up with you on a few
16 questions asked in the meeting, not at the press
17 conference; focused on CrowdTangle, and then she
18 talks about CrowdTangle; data on the online
19 interventions, and then she talks about the
20 interventions; and Facebook's borderline content
21 policies, and then she talks about those COVID
22 policies.

23 So she seems to be referring to
24 questions that were raised in the meeting with you
25 and Kyla on July 16th, correct?

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1 A. That -- that's a fair reading.

2 Q. Let's look at Exhibit 17. I'm going
3 to screen share. If you can pull it up on your
4 iPad. If you look at this e-mail chain involving
5 Nick Clegg, and Dr. Murthy, and eventually yourself
6 there at the top.

7 Do you remember this e-mail chain?

8 A. Yes.

9 Q. So if you go down to the second page,
10 there's -- starting on the first page, going to the
11 second page, the first e-mail is from Nick Clegg to
12 Dr. Murthy, copying Brian Rice, right?

13 A. That's correct. Brian Rice is copied
14 on this e-mail from Nick Clegg to Dr. Murthy.

15 Q. And Nick Clegg says: Dear Vivek,
16 reaching out after what has transpired over the
17 past few days following the publication of the
18 misinformation advisory and culminating today, and
19 the President's remarks about us.

20 This is July 16th, so I take it he's
21 referring to the "they're killing people comment,"
22 correct?

23 A. I don't know -- that's a fair
24 reading. I don't know what, in specific, Nick was
25 referring to, but that seems like a fair guess.

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1 Q. Yeah. He goes -- next sentence, he
2 says: I know our teams met today. Right? And
3 this is July 16th.

4 A. Right.

5 Q. Is that a reference to the meeting
6 between you and Kyla and Payton and the other
7 Facebook representatives that had been intended to
8 be the rollout meeting, but was actually the post
9 announcing meeting, right?

10 A. Yes, that's correct.

11 Q. And Nick Clegg -- by the way, what's
12 Nick Clegg's title? Is he the senior government
13 affairs person at Facebook?

14 A. I don't actually know Nick's title.

15 Q. He used to be the Deputy Prime
16 Minister of the United Kingdom, right?

17 A. I believe that's correct.

18 Q. So in other words, he was like --
19 that's like being vice president of the United
20 States for Britain, right?

21 A. You tell me.

22 Q. I don't know. He's the senior --
23 former senior government official in United
24 Kingdom, now head of global affairs at Facebook.

25 Is that the guy we're talking about?

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1 A. Sorry.

2 Can you repeat that? What's the
3 question?

4 Q. Never mind. Let me -- let me look at
5 this next sentence in the e-mail. He says: I know
6 our teams met today.

7 And I take it that's the meeting
8 between you and --

9 A. Can you highlight the -- can you
10 highlight the text while you're doing that, sir?
11 You were doing that so well. Thank you. Okay.

12 Q. Yeah, here. Here you go.

13 A. Thank you.

14 Q. I know your teams met today to better
15 understand the scope of what the White House
16 expects from us on misinformation going forward.
17 Correct?

18 A. That is what Nick Clegg wrote in the
19 e-mail to Dr. Murthy, yes.

20 Q. Yeah.

21 Was that his under- -- was that your
22 understanding that the meeting related to what the
23 White House expects from Facebook on misinformation
24 going forward?

25 A. No.

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1 Q. Okay. You had a different under- --
2 how -- how did he -- do you know how he got that
3 understanding?

4 A. I do not.

5 Q. Is it possible that Payton Iheme and
6 the other Facebook participants in the July 16th
7 meeting got that impression when they met with you
8 and Kyla and were asked things about CrowdTangle
9 and borderline content policies and so forth?

10 A. Is it possible?

11 Q. Sure.

12 A. In the sense that anything is
13 possible, yes.

14 Q. At the conclusion of this e-mail, he
15 says: I would appreciate the opportunity to speak
16 directly and discuss a path forward with you.
17 Correct?

18 A. That is correct. That is what
19 Mr. Clegg wrote to Dr. Murthy.

20 Q. Did -- did Dr. Murthy respond to this
21 e-mail immediately, do you know?

22 A. I don't recall. I can't recall if
23 Dr. Murthy responded or if I ended up responding to
24 set up the meeting.

25 Q. So that -- that e-mail requesting the

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1 meeting from Dr. -- from Nick Clegg was dated July
2 16th, right?

3 A. Yes, that's correct.

4 Q. And he's asking for another meeting
5 as well to the one you'd already had that day,
6 right?

7 A. That's correct.

8 Q. Yeah. And I'm putting on the screen
9 share, Exhibit 18, a text message from Nick Clegg
10 to Dr. Murthy dated July 18th of 2021.

11 Do you see that?

12 A. I do see that.

13 Q. So this is two days after the --
14 after that July 16th e-mail, right?

15 A. That's correct.

16 Q. And he says: Hi, Vivek. You may
17 have seen this post today in which we -- which we
18 issued to provide more context. We do not plan to
19 issue more public posts, et cetera. I imagine you
20 and your team are feeling a little aggrieved, as is
21 the Facebook team. It's not great to be accused of
22 killing people. Correct?

23 A. That is -- you are correctly reading
24 the text from Nick, correct.

25 Q. Were you aware that Nick Clegg

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1 followed up with Dr. Murthy by text message?

2 A. Dr. Murthy may have mentioned it. I
3 don't recall explicitly. I do recall discussing
4 that he had sent him the e-mail asking for time.

5 Q. And then, what -- what did -- what
6 did you guys decide about that? Or what did you
7 discuss about the e-mail asking for time? Did you
8 decide to meet with him?

9 A. You -- I think, sir, we've discussed
10 that meeting already in this deposition. But, yes,
11 we -- we -- we determined that we would meet with
12 -- with Nick. That's the deescalation call that I
13 think you and I discussed earlier today.

14 Q. Yeah. And fortuitously, the text
15 message goes on to say that, right. But as I said
16 by e-mail, I'm keen to kind find a way to
17 deescalate and work collaboratively -- work
18 together collaboratively. Right?

19 A. That is what Nick wrote to
20 Dr. Murthy.

21 Q. So after he -- after Facebook felt
22 singled out on the 15th and 16th at the press
23 conference and the "they're killing people"
24 comment, they were saying they were keen to
25 deescalate and work together collaboratively,

1 **right?**

2 A. Again, that is -- I agree with you
3 that that is what Nick wrote to Dr. Murthy.

4 Q. And did he say -- eventually a
5 meeting gets set up in response to these requests
6 by Nick Clegg, right?

7 A. Yes. I think we've -- we've already
8 talked about the -- the substance of this meeting.

9 Q. In fact, showing you on the screen
10 share, Exhibit 17, one we were looking at before.
11 On the 16th, Clegg e-mailed Dr. Murthy asking for a
12 meeting. But on the 18th, he texted the Surgeon
13 General and reiterated his request for a --

14 (A discussion was held off the
15 record.)

16 Q. (BY MR. SAUER) On the 18th, he
17 texted to request a meeting to deescalate and work
18 collaboratively. And then it looks like on the
19 19th, Dr. Murthy responded to the e-mail and said
20 he'd be happy to speak directly about how we move
21 forward. Right?

22 A. Yes. He says: I'd be happy to speak
23 directly. Sorry, you scrolled up, so I can't
24 finish that sentence.

25 Q. Sorry.

1 A. But yep. He says: I'd be happy to
2 speak directly about how we move forward. Let me
3 know the best way to schedule time later this week
4 and we'll make it happen.

5 **Q. Yeah. And that -- he looped in you**
6 **and Adam Beckman on that e-mail, correct?**

7 A. Yes. Brian Rice, Adam Beckman, and
8 myself are CC'd from -- on that -- on that e-mail.

9 **Q. And so, is this the meeting that got**
10 **scheduled for the 23rd, I mean, that you talked**
11 **about earlier?**

12 A. Yes, this is the meeting with -- with
13 Nick, with me, with DJ, and Dr. Murthy that we've
14 already spoken about.

15 **Q. Just refresh my memory because we've**
16 **talked about a lot of meetings. Generally**
17 **speaking, what was discussed at that meeting with**
18 **-- with Nick Clegg and -- did Brian Rice**
19 **participate?**

20 A. I don't think Brian did. I think
21 when we talked about it last time, I don't recall.
22 Brian may have been. If he was there, he was in a
23 listening mode. I don't think he would have spoken
24 much. But Nick, myself, Dr. Murthy, and DJ were
25 there.

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1 So are you asking me the same
2 question you asked me before --

3 **Q. Yeah.**

4 A. -- about this meeting?

5 **Q. Yeah. What was talked about in this**
6 **meeting?**

7 A. I think we said that Dr. Murthy --
8 the last time we asked this question, Dr. Murthy
9 asked Mr. Clegg about sort of the research
10 questions about understanding the -- the reach of
11 the data in terms the impact of the mis- -- health
12 misinformation. And as we discussed before, the
13 last time you asked me this question, I think DJ
14 had some questions about also on the data side and
15 Nick offered to connect DJ with a data person from
16 Facebook. That's what we discussed the last time,
17 I believe, when you asked me this question about
18 what was discussed at this meeting.

19 **Q. Okay. Let me pull up Exhibit 19.**

20 **Do you recall that e-mail chain,**
21 **starting here on July 23rd, from Nick Clegg to**
22 **Dr. Murthy that copies you?**

23 A. Yes.

24 **Q. He begins: Dear Vivek, if I may.**
25 **Correct?**

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1 A. Yes. He says: Dear Vivek, if I may.

2 Q. And first thing he says is: Thanks
3 again for taking the time to meet earlier today.
4 Right? On the 23rd, right?

5 A. Yes. Nick sends the e-mail on
6 Friday, July 23rd and says: Dear Vivek, if I may,
7 thanks again for taking the time to meet earlier
8 today.

9 Q. And he talks about it being helpful
10 to take stock and to establish our next steps,
11 right?

12 A. That is what the e-mail from Nick to
13 Dr. Murthy says, with -- I'm CC'd, so were a few
14 other people from Facebook.

15 Q. And Dr. -- Nick Clegg goes on to say:
16 We talked about the speed at which we are all
17 having to iterate as the pandemic progresses.
18 Right?

19 A. Yes, that -- Nick says: We talked
20 about the speed at which we are all having to
21 iterate as the pandemic progresses.

22 Q. Did you, in the meeting, talk about
23 the speed with which, you know, sort of problematic
24 posts are -- are -- are addressed or taken down?
25 Was that some of the speed that was talked about in

1 **the meeting?**

2 A. I don't really recall, but I have no
3 reason to think that Nick is lying here. So
4 presumably, that came up.

5 Q. And he says: I wanted to make sure
6 you saw the steps we took just this past week to
7 adjust policies on what we are removing with
8 respect to misinformation. Right?

9 A. Yes. He says: I want to make sure
10 you saw the steps we took just this past week to
11 adjust policies on what we are removing with
12 respect to misinformation as well as steps taken to
13 further address the Disinfo Dozen.

14 Q. So just this past week -- we're on
15 July 23rd here -- July 16th was the day of the
16 President's comment, "They're killing people," and
17 July 15th was the health advisory, right?

18 A. Those -- those dates are correct,
19 yes.

20 Q. Yeah. So just this past week are
21 steps Facebook has taken since they were called out
22 in the press conference and in the President's
23 comments to adjust policy.

24 So they've changed their policies,
25 right?

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1 A. I'm not sure whether they adjusted.
2 They're saying that they took additional steps here
3 is what I read that to say.

4 **Q. Yeah.**

5 A. I guess, yeah. They say we -- we --
6 we -- yeah, they say: We adjust policies. Yeah,
7 that's what they're saying they did.

8 **Q. Yeah. So they're reporting that**
9 **they've -- they're taking -- they've changed their**
10 **policies to remove disinformation and they've taken**
11 **steps to further address the Disinfo Dozen, right?**

12 A. That they are -- that they are taking
13 -- they removed 17 additional pages, groups, and
14 Instagram accounts tied to the Disinfo Dozen.

15 **Q. So they --**

16 A. Again, those are -- those are Ins- --
17 just to be clear, he's talking about Instagram
18 accounts, which is different than Facebook. Just
19 for clarity for you and me.

20 **Q. Okay. But he said they've taken down**
21 **17 additional pages, groups, and Instagram accounts**
22 **tied to the Disinfo Dozen.**

23 **So a total of 39 profiles, pages,**
24 **groups, and IG accounts deleted thus far, right?**

25 A. Yeah, that is what the e-mail from

1 Nick says to Dr. Murthy.

2 Q. And these are steps taken in just the
3 past week, right, the removal of 17 pages, groups,
4 and Instagram accounts, right?

5 A. That is what Nick says to Dr. Murthy,
6 yes.

7 Q. And he also says: We are also
8 continuing to make four other pages and profiles
9 which have not yet met the removal thresholds more
10 difficult to find than our platform. Correct?

11 A. Yes, that is what Nick says.

12 Q. And then he also says: In the past
13 week, they've expanded the group of false claims
14 that we remove to keep up with recent trends and
15 misinformation that we're seeing. Right?

16 A. Yes.

17 Q. And then immediately after that, he
18 says: We hear your call for us to do more. Right?

19 A. Yes, that what he -- he wrote to
20 Dr. Murthy.

21 Q. And that's actually a fair
22 description of what the health advisory does, it
23 calls for Facebook and other social media platforms
24 to do more, right?

25 A. Yes. It calls up for an all-society

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1 approach, for everyone to do more.

2 Q. Including social media platforms,
3 correct?

4 A. Absolutely, yes.

5 Q. And -- and after the July 23rd
6 meeting, the call to do more included removing
7 specific pages and accounts associated with the
8 Disinfo Dozen, correct?

9 A. I don't think that's what the --
10 that's not what Dr. Murthy asked for. That's what
11 they're saying they did.

12 Q. And that's what Jen Psaki asked for,
13 in fact, right, in the press conference; fair to
14 say?

15 A. I'd have to go back and look at
16 precisely what Ms. Psaki said, but she certainly
17 described the -- the pro- -- problematic nature of
18 the Disinformation Dozen. But I don't -- I don't
19 recall. You may be correct, but I don't recall
20 whether or not she explicitly called for their
21 removal.

22 Q. And after the -- the July 23rd
23 meeting, Nick Clegg thought it important enough to
24 raise as to you that they adjusted policies to --
25 to remove disinformation and took specific actions

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1 **against 17 pages, groups, and Instagram accounts**
2 **associated with the Disinformation Dozen, correct?**

3 MS. CHUZI: Objection. Calls for
4 speculation.

5 **Q. (BY MR. SAUER) That's what he**
6 **reported back hours after that meeting, right?**

7 A. Can you repeat the question, sir?

8 **Q. Well, it seems to me that hours after**
9 **this July 16th meeting, Nick Clegg e-mails you, and**
10 **Dr. Murthy and others, and reports back a couple**
11 **things. First, he reports back that they've**
12 **changed their policies with respect to what they're**
13 **removing of disinformation, which includes**
14 **expanding the group of false claims that we remove**
15 **to keep up with recent trends of misinformation,**
16 **correct?**

17 A. No. In your question, sir, you said
18 that hours after the July 16th meeting --

19 **Q. No, sir.**

20 A. -- Mr. Clegg reported these policy
21 changes. That's not correct.

22 **Q. I meant hours after the July 23rd**
23 **meeting. You're right.**

24 A. Yeah, that -- yes, after -- a week
25 after the issuance of -- more than a week after the

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1 issuance of the advisory and, yes, hours after the
2 meeting, Mr. Clegg reported on what Facebook was
3 doing.

4 Q. And what they had done in the week
5 between the advisory and July 23rd meeting, right?

6 A. I -- that's what he's -- that is how
7 Mr. Clegg is representing that, yes.

8 Q. And those steps include "adjusting
9 policies and what we're removing with respect to
10 misinformation," correct?

11 A. That is what Mr. Clegg is -- is -- is
12 reporting, yes.

13 Q. Yeah.

14 And taking specific actions against
15 accounts tied to the Disinformation Dozen, correct?

16 A. That -- that is what Mr. Clegg is
17 reporting to Dr. Murthy, yes.

18 Q. And then also expanding the group of
19 false claims that they remove as misinformation,
20 correct? Down there in the bottom.

21 A. Yes, that is what -- yeah, I see it.
22 Thank you, sir. This is what Mr. Clegg is
23 reporting to Dr. Murthy in that e-mail, correct.

24 Q. You remember those kinds of changes,
25 adjustments of policies and so forth, being touched

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1 upon in the July 23rd meeting that involved
2 Dr. Murthy and Nick Clegg?

3 A. I do not.

4 Q. So you -- you don't know why
5 Mr. Clegg thought it appropriate to report back
6 shortly after the meeting with those changes that
7 they'd made in the last week since the health
8 advisory came out?

9 A. I don't -- it didn't -- my
10 recollection is that was not raised on that call.
11 I think -- my guess, as we've discussed previously,
12 is that them perhaps viewing, much like Payton did
13 in her first e-mail to us after -- before our
14 meeting, viewing Ms. Psaki's remarks as -- as -- as
15 in -- in line with what Dr. Murthy was asking for.

16 Q. So they viewed Ms. Psaki's remarks at
17 the joint press conference she held with
18 Dr. Murthy, as the spokesperson for the President,
19 as in line with what the Surgeon General of the
20 United States wanted?

21 A. That's my -- that would be my guess,
22 but that's -- it wasn't because we asked for it and
23 that calls my recollection.

24 Q. All right. He goes on to say: We
25 hear your call to do more -- for us to do more.

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1 **Right?**

2 And I think we said we said a moment
3 ago, that's a pretty fair description of the health
4 advisory, right, a call for Facebook and others to
5 do more, right?

6 A. Yes. I think, as we've established,
7 the advisory and the -- and the remarks, and the
8 event with the Stanford Internet Observatory,
9 Dr. Murthy is calling on -- for an all-society
10 approach, including social media companies to do
11 more to address the problem of health mis- and
12 disinformation during the height of a historic
13 pandemic costing American lives that can be saved.

14 Q. And in particular, the -- one of the
15 things to do more is, he goes on to say: We will
16 reach out directly to DJ to schedule a deeper dive
17 on how to best measure COVID-related content.

18 **Right?**

19 A. Yes. And I believe you and I
20 discussed this before that they were going to
21 connect us -- they were going to have us do a
22 connection with DJ and a data person from Facebook
23 to better understand that question.

24 Q. Was -- was anyone from the Office of
25 Surgeon General involved in that communication

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1 **between DJ and the Facebook communication person?**

2 A. When you say "communication," do you
3 mean, like, the actual call or setting up the call?
4 Or how do you mean, sir?

5 **Q. Either.**

6 **Was there any involvement in the**
7 **Office of Surgeon General and further**
8 **communications between DJ Patil and Facebook?**

9 A. I think Brian Rice sent a follow-up
10 e-mail where I looped him with -- I think Facebook
11 reached out to DJ; I don't think they heard from
12 him. Brain reached out to me and I think I looped
13 him with DJ. And so, I -- I don't know whether or
14 not that loop got closed. I don't know whether DJ
15 met with the data person or not, but I know I was
16 -- I did try to help Brian connect with DJ --

17 **Q. Were --**

18 A. -- or make the connection between
19 Facebook and DJ.

20 **Q. Were you involved in any discussions**
21 **of, you know, the kind of substance of that issue**
22 **between DJ and anyone at Facebook?**

23 A. I was not.

24 **Q. So you tried to make the connection,**
25 **but you weren't there when they talked about the**

1 **merits, if they ever did?**

2 A. Yeah, correct. I -- I don't know
3 that they did talk. I did try to help connect
4 them. But I was not -- if there was a call, I was
5 not there.

6 Q. On the next page, Nick Clegg goes on
7 to say: You have identified four specific
8 recommendations for improvement and we want to make
9 sure to keep you informed on our work on each one.
10 Correct?

11 A. That is what Nick is writing in his
12 e-mail to Dr. Murthy, correct.

13 Q. You remember a -- a -- a -- a
14 discussion of four specific recommendations for
15 improvement in this call or elsewhere?

16 A. I do not.

17 Q. So you don't know what he's referring
18 to when he says to Dr. Murthy that he's identified
19 four specific recommendations for improvement?

20 A. I'm not certain. It could be the --
21 the four -- I -- I don't know if there's more than
22 four bullets in the advisory. Yeah, or it could be
23 -- I'm not sure if it -- if it come from the --
24 Ms. Psaki's comments. I don't know what the four
25 are.

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1 Q. He talks about trying to schedule a
2 regular cadence of meetings with your team so they
3 can update you on their progress on these
4 misinformation issues, correct?

5 A. Yes. Mr. Clegg asked for a regular
6 cadence of meetings.

7 Q. I think you testified earlier that
8 you guys decided not to do that because you didn't
9 think they were making good progress?

10 A. I believe I testified that I didn't
11 think they would be worth our time given our
12 competing priorities.

13 Q. Is a holiday in Spain a consummation
14 devoutly to be wished?

15 A. Are you a Shakespeare fan, sir?

16 Q. Yes.

17 A. So -- so you may know Hamlet
18 soliloquy talks about a consummation devoutly to be
19 wished. So I'm making a pun and a reference about
20 him vacationing in Spain and that it's a
21 consummation devoutly to be wished.

22 Q. I think Hamlet was talking about
23 death, so...

24 A. He was, but Spain sounds much better.

25 Q. I agree. Let me share Exhibit 21

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1 with you. Oh, you know what, I don't think I've
2 sent this to your lawyer yet because they wouldn't
3 all fit on one e-mail.

4 MR. SAUER: Amanda, I'm sending you
5 Exhibits 21, 22, 24, 25, and 27 by the next e-mail.
6 and while that's coming, I'll try and pull it up on
7 the -- on the shared screen.

8 Q. (BY MR. SAUER) This e-mail chain,
9 that involves Brian Rice, as well as Payton and
10 Nick Clegg.

11 A. Yes.

12 Q. So I think you testified, just a
13 minute ago, that you were involved in trying to
14 loop in DJ Patil to connect with Facebook, right?

15 A. Yes.

16 Q. You mentioned you're using his G-mail
17 account. Do you know why?

18 A. I just didn't -- I wasn't sure when
19 Mr. Patil's special government employee status was
20 coming to an end, so I wasn't sure whether or not
21 he was -- how regularly he was checking his
22 osdp.gov e-mail. So if he was missing one, I
23 wanted to just make sure he knew that Brian was
24 trying to get in touch with him.

25 Q. Here, this is August 6th, right? So

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1 **this is, you know, a little less than two weeks**
2 **after that July 23rd call, right?**

3 A. Correct.

4 Q. Yeah. And in this, you say: Also
5 **Brian and Nick.**

6 That's Brian Rice and Nick Clegg,
7 **right?**

8 A. Yes.

9 Q. It says: I know on the call with
10 **Dr. Murthy, he mentioned seeing if you were able to**
11 **send an update of any new additional steps you are**
12 **taking with respect to health misinformation in**
13 **light of the advisory. Right?**

14 A. Yes.

15 Q. Do you remember Dr. Murthy as- --
16 **asking for that in the July 23rd call?**

17 A. I think I already mentioned this
18 earlier in the discussion of the call, in one of
19 our earlier conversations during the deposition,
20 that we asked for an update. I didn't recall if I
21 asked for it or Dr. Murthy. But it appears that
22 based on this recollection, Dr. Murthy perhaps
23 asked for it.

24 Q. So Dr. Murthy asked Nick Clegg to
25 **give an update on any new slash additional steps**

1 they were taking with respect to health
2 misinformation in light of the advisory, correct?

3 A. Yeah. That -- I don't recall per se.
4 But if that's what I wrote down, then I have no
5 reason not to believe myself.

6 Q. And you went on to say: We are
7 asking all platforms for this type of update.
8 Right?

9 A. Yes, that's what I wrote there.

10 Q. Did you, in fact, ask other platforms
11 for that type of update? Say, hey, you've seen our
12 health advisory, can you tell us what new or
13 additional steps you're taking in light of it, with
14 respect to misinformation?

15 A. I believe so, but I don't recall per
16 se.

17 Q. Do you know if you sent a request
18 like that to Twitter?

19 A. I probably did, if I said I did. But
20 I don't recall.

21 Q. And how about YouTube/Google?

22 A. Same -- same answer.

23 Q. When you said "all platforms," did
24 you send a request like that to any other
25 platforms?

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1 A. I think I meant the folks who we had
2 talked to in the rollout of this report. So who --
3 I guess who we were viewing as the -- the most
4 impacted stakeholders.

5 **Q. Who was that? Platforms.**

6 A. Again, the groups you and I have
7 already talked about. So Facebook, Twitter. So
8 Facebook, Twitter, Instagram, and YouTube, and
9 Google.

10 **Q. How about LinkedIn?**

11 A. I think as we discussed previously,
12 we did not reach out to LinkedIn.

13 **Q. Or Reddit?**

14 A. As discussed and answered previously,
15 we did not reach out to Reddit.

16 **Q. Did Facebook provide an update?**

17 A. I think that they did. I don't
18 recall whether it was Brian who sent it or Nick,
19 but I think Brian sent us something.

20 **Q. And you said: Would you be able to**
21 **send something over within two weeks. Correct?**

22 A. Yes, that's what my e-mail to Brian
23 says -- or to Brian, DJ, Payton, and Nick.

24 **Q. And then I think Brian copied you**
25 **later, trying to connect to DJ about that data**

1 **sharing issue, right?**

2 A. Yes. It appears that that e-mail's
3 from the 17th from Brian reaching out to DJ, and
4 I'm CC'd, yes.

5 Q. But you don't recall being involved
6 in the follow-up conversations between DJ, or
7 Brian, or anyone else at Facebook about that,
8 correct?

9 A. That's -- that's correct, as I
10 answered the last time that you asked me this
11 question. I don't know if that call ever happened.
12 And if it did, I certainly wasn't part of it.

13 Q. And then in the e-mail in between --
14 I skipped over this -- Brian said: Our teams have
15 been working on additional steps. We will have
16 something back to you within two weeks outlining
17 our approach. Right?

18 A. That is what that Brian writes to DJ,
19 correct.

20 Q. Or to Eric.
21 That's you, right?

22 A. But I think he's addressing DJ in
23 that sentence. He says: DJ, let me know when best
24 would work on your end. Our teams have been
25 working on additional steps. We will have

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1 something to you to within the next two weeks
2 outlining our approach.

3 Q. Right.

4 A. I -- I -- I -- I view that as
5 outlining the approach for DJ, but maybe not.

6 Q. Well, you were the one who just sent
7 an e-mail saying: Would you be able to send
8 something over in two weeks? And maybe it's a
9 addressing both of you: We'll have something back
10 to you in two weeks outlining our approach for
11 additional steps. Right?

12 A. Yeah, it's possible. Yeah.

13 Q. Okay. Let's look at Exhibit 22.
14 Should be in your counsel's inbox. I'll put it on
15 the screen share. Here on July 21st, so this is
16 about five days after the "they're killing people"
17 comment, there's an e-mail from Rob Flaherty to
18 Dr. Murthy, CC'ing Alexandria Phillips, who I think
19 is Dr. Murthy's communications person, right?

20 A. Yes, Alexandria Phillips is
21 Dr. Murthy's communications director.

22 Q. Yeah. And then he copies a Jiore
23 Craig at gmail.com, right?

24 A. It's pronounced Jiore.

25 Q. Jiore?

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1 A. Yes, like -- like -- rhymes with
2 Dory.

3 Q. Gotcha. Not Nemo.
4 So Jiore Craig and says to
5 Dr. Murthy: Wanted to link you with Jiore Craig,
6 who's been a critical leader on the DNC's misinfo
7 work for a long time. Right?

8 A. Yes, that's the e-mail that Rob has
9 written to Dr. Murthy.

10 Q. And Rob is the digital director in
11 the White House, right?

12 A. I believe that's his title.

13 Q. And I think we talked earlier about
14 your communications with him.

15 And do you know what misinfo work
16 Jiore Craig does for the DNC?

17 A. I'm not certain. My guess would be
18 maybe around voter suppression or sort of the
19 disinformation that sometimes is shared with voters
20 to discourage them from voting.

21 Q. And the DNC's the Democratic National
22 Committee, right?

23 A. That's what I would assume.

24 Q. Yeah. And it says, she's, quote,
25 also been helping us think through mis slash dis on

1 **the COVID side. Right?**

2 A. Yes, that's what Rob's e-mail says to
3 Dr. Murthy.

4 **Q. Yeah. So he wanted -- he says: I**
5 **thought it would be great for both of you to**
6 **connect as OSG charts out next steps. Right?**

7 A. Yes, that's what Rob has written to
8 Dr. Murthy.

9 **Q. Yeah.**
10 **Do you know why Rob Flaherty thought**
11 **it would help for the Office of Surgeon General to**
12 **be talking to Jiore Craig about COVID-19**
13 **misinformation?**

14 A. It appears, based on his e-mail, that
15 he's indicating that she is a subject matter expert
16 on mis- and disinformation.

17 **Q. What is her subject matter expertise,**
18 **do you know?**

19 A. I'm not positive, but his indication
20 is that one of those areas is mis- and
21 disinformation.

22 **Q. With respect to COVID in particular?**

23 A. I think it may be multipronged, but I
24 think it includes COVID.

25 **Q. And it says: She's been helping us**

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1 think through mis/dis on the COVID side.

2 Are you -- do you know what she was
3 doing to help Rob Flaherty in the White House think
4 through mis- and disinformation on the COVID side?

5 A. I do not.

6 Q. Were there follow-up communications
7 between the Office of Surgeon General and Jiore
8 Craig?

9 A. Yes. I set up a call with her.

10 Q. What was the end -- I think that's in
11 the first page here. Is this the calendar invite
12 for that call --

13 A. Yes.

14 Q. Eric Waldo and Jiore connect?

15 A. Yes.

16 Q. You had a call with her on the 22nd
17 of July, the next day?

18 A. That's what it looks like, yes.

19 Q. And did -- was Kyla on that call? It
20 says she's an optional participant, correct?

21 A. I don't recall whether Kyla joined or
22 not. She may have.

23 Q. What about Alexandria Phillips?
24 She's on the invite, too.

25 A. My very strong guess is Alex did not

1 join because she was pretty understaffed at that
2 moment and was usually in multiple meetings at one
3 time.

4 **Q. What did you guys talk about in this**
5 **call, you and Jiore?**

6 A. I think it was more of a courtesy,
7 getting-to-know-you call. So Rob had sent the note
8 to Dr. Murthy. I was doing the call in lieu of
9 Dr. Murthy, so I was just really trying to meet
10 her, learn what her -- what her views were and if
11 there was anything she thought we should be
12 thinking about.

13 **Q. What did she say you should be**
14 **thinking about, if anything?**

15 A. I think she was, in some ways, just
16 another person saying I'm glad you guys are working
17 on this. And, you know, I don't think she thought
18 we were going to get much movement from technology
19 or -- or social media companies, but that we were
20 doing the right thing and asking for it.

21 **Q. Did she say anything other than that**
22 **on the call? Do you remember anything specific**
23 **that she said?**

24 A. Not to my recollection.

25 **Q. Did you ask her anything on the call?**

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1 Did you ask her how she could be helpful to the
2 Surgeon General's office in combating
3 misinformation?

4 A. Not to my recollection.

5 Q. Do you remember what you said on the
6 call?

7 A. I think I wanted to learn more about
8 her career path and what got her into that line of
9 work and, you know, what she was working on.

10 Q. Was there an understanding that she
11 might be considered to be a subject matter expert
12 for the Surgeon General's office?

13 A. Sorry. How do you mean, sir?

14 Q. Well, let me ask you this.

15 Did -- did anything come of this
16 call? Did she go on to have any role in advising
17 the Surgeon General's office on COVID
18 misinformation?

19 A. She did not.

20 Q. And why was that, did you not
21 recommend it? Or, you know, what happened after
22 the call?

23 A. Well, I think she seemed like a very
24 competent person. I think the reality was that our
25 office had subject matter expertise already and was

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1 still determining what the course of action would
2 be for any follow-up we were going to do after the
3 launch. So I don't think we had a role or a proper
4 way to include her other than, you know, just a
5 person -- a -- a public-facing citizen who clearly
6 was interested in our work and a courtesy call to
7 -- for -- to a colleague.

8 Q. Did you ask her in the call what she
9 had done to advise the White House to help them
10 think through COVID misinformation?

11 A. I did not.

12 Q. Do you have any understanding of what
13 her role may have been in coordinating with the
14 White House on that issue?

15 A. I do not.

16 Q. Exhibit 23.

17 MS. CHUZI: Counsel, I don't think I
18 have 23. I have 21, 22 --

19 MR. SAUER: I'm sorry. I'm sorry. I
20 meant -- I meant Exhibit 24. Here.

21 MS. CHUZI: Oh. Got it.

22 MR. SAUER: I skipped 23. So here's
23 24. My bad.

24 Q. (BY MR. SAUER) Do you remember Brian
25 Rice sending you this e-mail on August 18th?

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1 A. I do not.

2 Q. Here, if you look at the -- the --
3 the e-mail that he sent to you and DJ Patil on
4 August 18th, he -- he's captioned it Disinfo Dozen
5 Post, right?

6 A. That's correct.

7 Q. And it says: Eric and DJ, flagging
8 this post for you and for Surgeon General Murthy.
9 This detail -- details how we are approaching
10 content from the Disinfo Dozen. Correct?

11 A. Yes, that's correct.

12 Q. And then there's a following post
13 that talks about -- I think Facebook disputes --
14 the Disinfo Dozen are actually responsible for as
15 much misinformation spreading as the CCDH thing.
16 Is that correct?

17 A. Sorry. Can you repeat that, sir?

18 Q. Well, let me ask you this. In the
19 second paragraph of the post, it talks about: Any
20 amount of COVID-19 misinformation violates our
21 policies is too much by our standards. And we have
22 removed over three dozen pages, groups, Facebook or
23 Instagram accounts linked to these 12 people.
24 Right?

25 A. Yes. The first sentence says that.

1 Said: Any amount of COVID-19 that violates our
2 policies is too much by our standards. And we've
3 removed over three dozen pages, groups, and
4 Facebook or Instagram accounts linked to these 12
5 people, including at least one linked to each of
6 the 12 people for violating our policies. And then
7 it goes on to describe other things.

8 Q. About imposing penalties on two --
9 nearly two dozen additional pages, groups, or
10 accounts linked to these 12 people, right?

11 A. Yes.

12 Q. So this is the kind of second report
13 that Facebook has sent you guys after that July
14 23rd meeting where they're reporting back about
15 actions taken against the Disinfo Dozen, correct?

16 A. That's correct.

17 Q. So there was a Nick Clegg e-mail at
18 7:30 p.m. on July 23rd where he reported back the
19 steps they'd taken that included moving against
20 many Disinfo Dozen accounts, correct?

21 A. That's correct.

22 Q. And then again, on August 18th,
23 there's a report back with further adverse actions
24 taken to remove content and -- and pages and groups
25 associated with the Disinfo Dozen, correct?

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1 A. If you're referring to this e-mail.

2 Q. Correct. Yeah. Right?

3 A. Yes.

4 Q. Yeah. Okay. And you -- you just
5 responded: Thank you, Brian. Appreciate you
6 sharing this. Right?

7 A. That is my response to Brian,
8 correct.

9 Q. Does this e-mail jog your memory as
10 to any further discussions with Facebook from the
11 Surgeon General's office about the Disinfo Dozen?

12 A. There were no further conversations
13 with Facebook regarding the -- the Disinfo Dozen
14 between Facebook and the Surgeon General's office
15 to my recollection.

16 Q. Yeah.

17 Were -- were the Disinfo Dozen raised
18 at all in the July 23rd call?

19 A. Not to my memory.

20 Q. Exhibit 25.

21 Do -- do you see it?

22 A. I see that you have it up, and now
23 gov- -- government counsel is providing me with it
24 as well.

25 Q. In the middle of this e-mail, there's

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1 -- or the -- the -- the first e-mail here,
2 chronologically, about halfway down the first page,
3 is an e-mail from Nick Clegg to you, Dr. Murthy,
4 and DJ, and Brian Rice, correct?

5 A. Yes.

6 Q. And this was sent on August 20th of
7 2021, correct?

8 A. That's correct.

9 Q. So this is two weeks exactly after
10 your August 6th e-mail where you -- you asked them
11 for an update within two weeks as the actions they
12 took in light of the health advisory, correct?

13 A. That's correct.

14 Q. And, in fact, Nick Clegg says, you
15 know: Dear Surgeon General, you asked for an
16 update on existing and new steps that Facebook is
17 taking. Right?

18 A. Yes, that's what that e-mail says.

19 Q. So this is, I guess, the report back
20 to your request for a -- a request for report in
21 two weeks related to actions they took in respect
22 to the advisory, right?

23 A. That's correct.

24 Q. And one of the things, in the next
25 paragraph, that Nick Clegg talks about is -- he

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1 **talks about several things, but one is further**
2 **policy work to enable stronger action against**
3 **persistence distributors of vaccine information,**
4 **correct?**

5 A. Sorry. Can you go a little earlier
6 in that paragraph just so I understand what he's
7 referring to? Those prior -- all right. (Reading
8 in sotto voce.) Okay.

9 Q. **So he says --**

10 A. Yes, got it.

11 Q. **Yeah. Further --**

12 A. Yep.

13 Q. **-- policy work to enable stronger**
14 **action against persistence distributors of vaccine**
15 **misinformation, right?**

16 A. That's correct.

17 Q. **He talks about boost the access to**
18 **authorative information and other things as well,**
19 **right?**

20 A. Sorry, where? What -- what's -- I --
21 I -- I don't think you're lying to me, I just want
22 to know where -- where you're seeing that.

23 Q. **Let me make it bigger.**

24 A. Yeah, thank you. That's very
25 helpful.

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1 Q. Yeah. Sorry. Boosting access to
2 authoritative information --

3 A. Yeah, I see that. Thank you, sir.

4 Q. There's two pieces to this report;
5 one is elevating access to better information,
6 right? That's one thing he talks about with some
7 bullet points, right?

8 A. Yeah, that's a section that he's
9 lined out in -- in bold.

10 Q. Yeah. And then limiting potentially
11 harmful information is the second section in bold
12 on the next page, right?

13 A. Yes. And I believe there's a third
14 section as well on increasing transparency.

15 Q. Yeah. And I take it, that was a bit
16 of a sticking point in your discussions with them,
17 right, increasing transparency?

18 A. I think that's -- that's fair.

19 Q. In other words, the -- the perception
20 of the Surgeon General's office is they weren't
21 really taking meaningful steps to increase
22 transparency, right?

23 A. I think we -- I don't -- I don't
24 think we -- we few -- we thought that they would
25 make -- make many moves in that direction, correct.

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1 Q. Yeah. And then going back up where
2 it talks about limiting potentially harmful
3 information, he says: We continue to improve and
4 refine measures that reduce the spread of
5 potentially harmful content and limit the
6 distribution of actors who share misleading
7 information about COVID and the vaccine. Correct?

8 A. Yes, that's what the document says.

9 Q. And he's got about nine bullet points
10 on that, right?

11 A. I think it's five. One of -- I
12 consider those other sub bullets possibly, or he's
13 just bad at formatting, but I don't know if he
14 thinks that the -- that the -- the -- the -- the --
15 the ones that are not filled in or -- or I think
16 those might be sub bullets. But yeah, I -- I -- I
17 don't -- not -- not a dispute of -- of -- of merit.

18 Q. Those are five bullets and the first
19 bullet has four sub bullets, right?

20 A. Three sub bullets, yes.

21 Q. I see four.

22 A. One, two, three -- oh, you're right.
23 Thank you so much.

24 Q. First one is: We will shortly be
25 expanding our COVID policies to further reduce the

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1 spread of potentially harmful content on our
2 platform and these changes will apply across
3 Facebook and Instagram. Right?

4 A. Yes, that's what the e-mail says.

5 Q. So he's reporting back with new
6 policy changes, in addition to the ones he already
7 reported to you in the e-mail on July 23rd, that
8 will reduce content -- misinformation content about
9 COVID, right?

10 A. The only thing I'll say to that
11 question is I -- you know, I don't have both of
12 them in front of me to compare and say whether or
13 not there was some overlap. I don't know if they
14 were -- if some of the things he reported in that
15 first e-mail are also captured here.

16 Q. Suffice to say --

17 A. So I'm not sure --

18 Q. Go ahead.

19 A. I'm not sure -- I -- I -- I'm not
20 sure how much of this is, like, new and in addition
21 versus, in some ways, a re- -- recapture of what
22 they've shared.

23 Q. But it's being presented here as new
24 changes, right? He says: We continue to improve
25 and refine measures. Right?

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1 A. Yes. Yeah.

2 Q. And those measures --

3 A. I'm just saying I don't know how
4 accurate that is.

5 Q. Right. Right. Yeah.

6 But this is what he's reporting to
7 you guys, right?

8 A. Correct.

9 Q. And new measures include increasing
10 the strength of dem- -- demotions for COVID and
11 vaccine-related content that's related partly falls
12 on missing context, right?

13 A. That's correct.

14 Q. And he says he's making it easier --
15 they're making it easier to have pages, groups, and
16 accounts demoted for sharing COVID and
17 vaccine-related misinformation and so forth.
18 Right?

19 A. Yes, that is what he has written in
20 that bullet.

21 Q. And he talks about making entities
22 linked to other entities that have been removed, as
23 non recommendable. Right?

24 A. Sorry, can I -- (reading in sotto
25 voce). Rendered and is not -- okay. Yes, I see

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1 that. Thank you.

2 Q. And lastly: We will also be
3 strengthening our existing demotion penalties for
4 websites that are repeatedly fact-checked for COVID
5 and vaccine misinformation content shared on our
6 platform. Right?

7 A. Yes.

8 Q. Then he's got -- looks like he's got
9 a report about removing 20 million pieces of
10 content and removing 3,000 accounts, pages, and
11 groups for people who have been violating rules
12 against COVID and vaccine misinformation.

13 A. Yes. And I would note that it
14 appears that that bullet is a summation, not a new
15 thing, right. That's just sort of saying in total,
16 these are all the things we've done.

17 Q. Yeah. Going back to the beginning of
18 the pandemic it looks like.

19 A. Exactly. Yes, sir.

20 Q. Yeah. It says: We've specifically
21 investigated the people sometimes identified in the
22 media as the Disinfo Dozen. Right?

23 A. Yes.

24 Q. And it talks about applying penalties
25 to some of their website domains as well as -- so

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1 that posts are moved lower in the news feed and so
2 forth.

3 A. Yes, that's what Nick is describing.

4 Q. So this is Nick's -- or this is
5 Facebook's third report since July 16th to you guys
6 about adverse actions taken about -- taken against
7 content associated with the Disinfo Dozen, right?

8 A. I believe so.

9 Q. Okay. Let me flip back to the first
10 page of this document. You respond to Nick right
11 here in this --

12 A. Yes.

13 Q. You say: I hope this finds you well.
14 No Shakespeare quotes in this response,
15 unfortunately. But you say: Brian and I are also
16 in touch, but we look forward to continuing to move
17 forward together with urgency and solutions during
18 these extraordinary times. Right?

19 A. Yes, that's what I wrote.

20 Q. What did you mean by "moving forward
21 together with urgency and solutions"? It's unusual
22 phrasing.

23 A. I think I was hoping that Facebook
24 would continue to move. Urgency means, you know,
25 that they would take this seriously, and solutions

1 means that they would also come with real solutions
2 to the problems and not just pretend to solve
3 problems. So I think that's what I meant.

4 Q. Exhibit 27, do you remember getting
5 this e-mail from Brian Rice on August 23rd?

6 A. Can I review this for one second,
7 sir?

8 Q. Yeah. Sure.

9 A. I don't remember it, but now that I
10 see it, it rings a bell.

11 Q. If you go to the next page, it
12 actually starts with an e-mail from Brian Rice to
13 Rob Flaherty -- or actually from Rob Flaherty to
14 Brian --

15 A. Oh.

16 Q. -- Rice.

17 Does that ring a bell?

18 A. I'm -- I'm seeing it now. Sorry.
19 Brian. Okay, I see the note.

20 Q. So --

21 A. Va- -- vaguely familiar, yes.

22 Q. So Flaherty said to Rice: Now that
23 the FDA has approved Pfizer -- presuming the Pfizer
24 vaccine --

25 A. Yes.

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1 Q. -- I'm making rounds to get a sense
2 from the various platforms if you guys are planning
3 to promote it in any way.

4 A. Yes, that's correct.

5 Q. And he says: We appreciate a push
6 here, given the fact that this is an off-cited
7 blocker for many folks. Right?

8 A. Yes, that's what Brian has written to
9 -- I'm sorry -- what Rob has written to Brian.

10 Q. So Rob's asking -- he's asking
11 Facebook and other social media platforms to kind
12 of, you know, promote the fact that the FDA has now
13 approved the Pfizer vaccine, which had been a point
14 of vaccine hesitancy for some people until then,
15 correct?

16 A. Yes. That is -- that -- that is --
17 appears to be a correct reading of the e-mail.

18 Q. And Brian responded to Rob talking
19 about an update about what they're doing about it
20 to -- you know, to update any language as needed,
21 for example, right?

22 A. Yes.

23 Q. And that -- that -- he says: We'll
24 keep you updated on this as it progresses. Right?

25 A. Yes, that's what Brian writes to Rob.

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1 Q. And then Brian, who is the Facebook
2 guy, also states: We're also updating our
3 misinformation policies to remove the specific
4 claims that there are no FDA-approved vaccines and
5 the Pfizer vaccine is not FDA approved, and we'll
6 continue to look for claims that are no longer
7 accurate, given the approval today. Correct?

8 A. That is what Brian has written to
9 Rob, yes.

10 Q. So his response to Rob includes a
11 report back on additional content that Facebook
12 plans to remove from its platforms if people post
13 it, right?

14 A. I don't know that he says remove.
15 Oh, you're right. Yes. He says: We're updating
16 our (unintelligible) to remove the specific claims.
17 Yeah, so it looks like they're defining claims that
18 -- that Pfizer's not FDA approved, they're defining
19 that as health misinformation, which according to
20 their policies, they would remove. It sounds like
21 they're adding that as a definition of
22 misinformation.

23 Q. And that --

24 A. I don't know that they're updating
25 the overall policy. I think they're adding that to

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1 their definition of misinformation.

2 **Q. Right. So they're update -- they're**
3 **updating the policy to remove those specific claims**
4 **if people post them on their platform, right?**

5 A. Yeah, I -- I -- that is what he says,
6 yes.

7 **Q. Yeah. And he then forwarded that on**
8 **to you too, right? He reported to you on those**
9 **points?**

10 A. Yes. He says: Eric, making sure to
11 flag for you as well. Let me know if you have any
12 questions.

13 **Q. Did you have any questions?**

14 A. Not to my recollection.

15 **Q. Do you remember any discussions of**
16 **removing misinformation related to the FDA approval**
17 **of the Pfizer vaccine?**

18 A. No.

19 **Q. And this is sent to you three days**
20 **after that report on August 20th that Nick Clegg**
21 **sent about expanding or adjusting their policies to**
22 **remove more misinformation, right?**

23 A. Yes. The 23rd is three days after
24 the 20th.

25 **Q. This is a breaking point.**

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1 A. Great.

2 Q. We can take a quick break. I'm happy
3 taking a quick break now or going forward. Break?

4 A. I would say to break in five minutes.
5 I didn't know how much longer you were going to go.
6 but, yeah, should we -- do you want to take an
7 eight-minute break?

8 Q. Yeah.

9 MR. SAUER: Off the record.

10 THE VIDEOGRAPHER: The time is 2:14
11 p.m. We are off the record.

12 (A short break was taken.)

13 THE VIDEOGRAPHER: The time is
14 2:28 p.m., Central Standard Time. We are back on
15 record.

16 Q. (BY MR. SAUER) Mr. Waldo, I'm
17 showing you Exhibit 28, and this is a lengthy,
18 232-page report that was done by the Virality
19 Project. I think you testified earlier that you
20 never heard of Virality Project; is that right?

21 A. That's correct. I have not heard of
22 them.

23 Q. Okay. And so do -- have you ever
24 seen this report before? It's kind of got a
25 distinctive cover.

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1 A. I have not.

2 Q. And then were you aware of any
3 involvement in the Surgeon General's office with
4 the Virality Project?

5 A. I'm not aware of any involvement with
6 the Surgeon General's office and the Virality
7 Project.

8 Q. Okay. And then how about with the
9 entities that make it up, include the Stanford
10 Internet Observatory, which we've already talked
11 about. Are you -- other than the announcement
12 being hosted at Stanford, are you aware of any
13 collaboration between the Surgeon General's office
14 and the Stanford Internet Observatory?

15 A. I think I mentioned that we had a
16 call with Renee at some point. I think after the
17 announcement. I think that was just, again, a
18 brainstorm about potential follow-up events to do.

19 Q. How about the University of
20 Washington's Center for Informed Public, does that
21 ring a bell?

22 A. I'm not familiar with them.

23 Q. How about Kate Starbird, a professor
24 at the University of Washington?

25 A. I don't think so, unless she was a

1 panelist on the -- at that Stanford event, but I
2 don't believe so.

3 Q. How about Graphika, an organization
4 called Graphika with a p-h and a k?

5 A. I'm not familiar with Graphika, sir.

6 Q. How about the Atlantic Council?

7 A. Is that the Atlantic magazine, sir?

8 Q. No, it's associated with NATO.

9 A. I'm not familiar with them.

10 Q. In this report, at one point, it
11 says: The Office of the Surgeon General
12 incorporated the Virality Project's research and
13 perspectives into its own vaccine misinformation
14 strategy.

15 Would you have any knowledge of the
16 basis for a statement like that?

17 A. I do not have any knowledge for the
18 basis of that statement.

19 Q. This report talks about how
20 stakeholders, including government stakeholders,
21 were allowed to submit tips through the Virality
22 Project of online content they thought was harmful
23 misinformation about COVID-19 vaccines. Are you
24 aware of anyone in the Office of Surgeon General
25 submitting tips to the Virality Project about

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1 content that they wanted to be flagged for removal
2 from social media platforms?

3 A. I'm not familiar.

4 Q. Are you aware of any other federal
5 official participating in -- in that -- that
6 activity of submitting tips to the Virality Project
7 about online COVID vaccine misinformation?

8 A. I am not familiar with any government
9 official participating with the Virality Project in
10 any capacity.

11 Q. Okay. There's a reference in here to
12 health freedom organizations and content --
13 misinformation content spread by health freedom
14 organizations. Are you familiar with that concern
15 at all, that health freedom organizations are
16 spreading misinformation?

17 A. I am not familiar with that.

18 Q. And I take it -- same question for
19 Virality Project tickets, that there are tickets
20 they used to track online misinformation related to
21 COVID vaccines. Are you aware of government
22 officials being involved in Virality Project
23 tickets?

24 A. I'm not familiar with any government
25 officials being involved in Virality Project

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1 tickets.

2 Q. There's a reference -- there's about
3 49 references in this report to someone called Alex
4 Berenson. Do you know who that is?

5 A. I do not know who Alex Berenson is.

6 Q. You've never heard of former New York
7 Times reporter and well-known vaccine skeptic Alex
8 Berenson?

9 A. I do not know who Alex Berenson is,
10 sir.

11 Q. So that -- have you ever -- remember
12 any discussions of -- I guess if you don't know who
13 he is, do you remember his name coming up in
14 discussions of misinformation?

15 A. I do not know who Alex Berenson is,
16 and I do not recall his name coming up in any
17 discussions about health misinformation.

18 Q. There's a reference in this report to
19 the Gateway Pundit, a website where it's
20 described -- the report describes the Gateway
21 Pundit as a purveyor of health misinformation.

22 Do you remember any references in any
23 connection to the Gateway Pundit?

24 A. I do not, sir.

25 Q. How about someone called Jim Hoft or

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1 **Joe Hoft, H-O-F-T? Has that name ever come up?**

2 A. Sorry, is that the name of a person
3 or an organization?

4 **Q. Person. H-O-F-T, Jim Hoft and Joe**
5 **Hoft, brothers.**

6 A. I have not heard of Jim or Joe Hoft.

7 **Q. How about Dr. Jay Bhattacharya, is**
8 **that name familiar to you?**

9 A. I'm not familiar with Dr. Jay
10 Bhattacharya.

11 **Q. How about Martin Kulldorff,**
12 **K-U-L-L-D-O-R-F-F?**

13 A. I'm not familiar with Martin
14 Kulldorff.

15 **Q. You don't remember those names ever**
16 **coming up?**

17 A. Ever coming up? I've never heard
18 that -- that name before, sir.

19 **Q. Okay. How about Aaron Kheriaty,**
20 **K-H-E-R-I-A-T-Y.**

21 A. I do not know Mr. Kheriaty.

22 **Q. Have you ever heard his name before?**

23 A. I have not heard his name before this
24 moment.

25 **Q. About America's Frontline Doctors, an**

1 organization. Do you remember that ever coming up?

2 A. I don't have any recollection of
3 America's Frontline Doctors.

4 Q. How about Robert F. Kennedy, Junior?

5 A. I have heard of Robert F. Kennedy,
6 Junior.

7 Q. What have you heard about him?

8 A. I know that he is a vaccine skeptic.

9 Q. What -- what -- has his name ever
10 come up in connection with online misinformation
11 about COVID vaccines?

12 A. Only in what I've read in my personal
13 capacity.

14 Q. How about in your official capacity?
15 Is that a name that's ever crossed your desk?

16 A. No, it is not.

17 Q. There's multiple references in this
18 report to the involvement of the Surgeon General's
19 office in the Virality Project. Who would know --
20 and there's five references to Dr. Murthy. Who in
21 the Surgeon General's office would know whether or
22 to what extent the Surgeon General's office is
23 involved in the Virality Project?

24 A. So I'm not familiar with the Virality
25 Project, and -- but I think given the -- given the

1 area that this is focused on, misinformation, I
2 would assume the only people who could know would
3 be Kyla Fullenwilder, Daniel Tartakovsky, Tyiesha
4 Short, Rafael Compos, Max Lesko, and Dr. Murthy
5 himself.

6 Q. I think all those names have come up
7 today already except I don't remember you
8 mentioning Tyiesha Short. Who's she?

9 A. I think I mentioned Tyiesha in
10 passing. She reported to Daniel Tartakovsky.
11 She's another policy expert in the policy team, so
12 I'm not precisely sure about Tyiesha's role in the
13 development of the advisory, but she reported to
14 Daniel, and I believe that she was someone who did
15 some research for the -- the report itself.

16 Q. So you're -- you're -- the report
17 being health advisory?

18 A. Yeah, sorry. The -- the health mis-
19 and disinformation advisory.

20 Q. So that's your kind of educated
21 speculation as to who would be likely to know would
22 be those names?

23 A. That's correct, sir.

24 Q. Yeah, and I guess that makes sense
25 because the report says that the health advisory

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1 **adopted essentially the approach of the Virality**
2 **Project, so the people most likely to know about**
3 **the Surgeon General's involvement in the Virality**
4 **Project would be the people who were involved in**
5 **drafting the health advisory, right?**

6 A. You're -- what you're describing
7 is --

8 **Q. And so you mentioned the policy team,**
9 **Dr. Murthy himself, and Max Lesko, right?**

10 A. I mentioned Daniel and Tyiesha from
11 the policy team. As we described previously on the
12 org chart, Kyla Fullenwilder technically reports to
13 the design team, to Anne Kim, and then Max Lesko
14 and Dr. Murthy.

15 At some point when he was in the
16 office, Adam maybe would have -- Adam Beckman would
17 be someone who may know because during this time,
18 we did not have a policy director and Adam was
19 functionally the policy director, during that, you
20 know, until sometime I think in late August, early
21 September when we got a policy director. So Adam
22 Beckman is the only other person I didn't mention
23 in our first round of this question.

24 **Q. Okay. I'm going to put up Exhibit**
25 **30. Can you see it on the screen share?**

1 A. Yes, I can. And I also have the
2 document in front of me from government counsel.

3 Q. And this is an e-mail chain going to
4 September 18th from Brian Rice. I think he's
5 emailing you and some White House people, right?
6 Courtney Rowe, is she in the White House?

7 A. Yes, Courtney was a member of the
8 COVID-19 team.

9 Q. What was her role exactly?

10 A. I'm not positive, but I think she was
11 a -- the communications lead. She -- I knew
12 Courtney previously in the Obama administration as
13 a communications lead, so that's my very -- very
14 educated guess.

15 Q. Did you interact with her with -- on
16 any misinformation-related issues in -- in the
17 Biden administration?

18 A. After the report came out, at some
19 point, we did have a call that Courtney was on --
20 between the Office of the Surgeon General and
21 members of the COVID-19 team to discuss
22 misinformation.

23 Q. Yeah, what kind of misinformation
24 concerns were discussed?

25 A. It was overall just a call to talk

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1 about whether or not we were going to do any
2 other -- of that sort of public-facing events or
3 there was any other sort of press-related things we
4 were going to do to talk about the issue.

5 Q. And what was the -- did the White
6 House people want you to do more or what was the
7 nature of the discussions?

8 MS. CHUZI: Objection. To the extent
9 that the question is asking for privileged
10 information, I would instruct the witness not to
11 answer.

12 THE WITNESS: On the advice of
13 counsel, I will not answer the question.

14 Q. (BY MR. SAUER) Let me ask you about
15 the e-mail on the shared screen. Where -- do you
16 remember Brian Rice writing to you -- he says Eric
17 and team. I assume Eric is you, and the team is
18 Courtney Rowe, DJ Patil, and Rob Flaherty; is that
19 fair to guess?

20 A. Yes. I think if you look at the
21 chain, it starts -- it starts with just a COVID
22 inside report from the 21st, then another report on
23 the 7th. So yes, I think it's -- it's fair to
24 assume he's -- he's referring to me and the -- the
25 COVID-19 team.

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1 Q. And as to those COVID reports,
2 those -- during all this time frame, Facebook is
3 sending those to you guys every two weeks,
4 basically, right?

5 A. That sounds correct, sir. I think
6 it's been referred to in these documents as
7 biweekly. That sounds accurate.

8 Q. And that continues, I think, all the
9 way until the following summer of 2022, right?
10 Because you mentioned earlier that at one point,
11 Facebook kind of said we want to stop it, and the
12 response was no, please keep sending them because
13 we have early childhood vaccine authorization in
14 the summer of 2022, right?

15 A. Early childhood happened before then,
16 I think. I don't -- I don't -- I know this because
17 I also have a child -- yeah, and maybe it was,
18 like, late spring, but, yes, they -- they
19 continued -- we continued to receive them on a
20 biweekly basis for a while, but I don't know that
21 anyone was doing anything with them.

22 Q. Are you still getting them? I mean,
23 I know you've changed in a different role as senior
24 advisor. Do you know if they're still here in
25 November of 2022?

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1 A. I don't think I'm getting them
2 anymore, sir.

3 Q. It says Eric and team in this e-mail,
4 and he talks about: I'm sure you saw yesterday's
5 story in the Wall Street Journal about spread of
6 COVID mess -- COVID-19 misinformation and comments
7 on Facebook. Right?

8 A. Yes, that's the -- yeah, I'm sure you
9 saw yesterday's story in the Wall Street Journal --
10 sorry, WSJ -- about the spread of COVID-19
11 misinformation and comments on Facebook. The
12 story, largely based on cherry-picked leaked
13 documents, doesn't accurately represent the problem
14 or the solutions we have put in place to make
15 comments on posts about COVID and vaccines safer.
16 Yes.

17 Q. Yeah. So in other words, Brian is
18 referring to a recent media article about COVID-19
19 misinformation on Facebook, and he's trying to kind
20 of refute the article to -- to you guys, right?

21 A. Yes, that is what -- it appears
22 that's what he's trying to do, yes.

23 Q. And Rob Flaherty is the one who
24 responds to this e-mail, right?

25 A. Yes, Rob is the one who responds on

1 Saturday, September 18th.

2 Q. Which is the same day that Brian sent
3 his, right? It falls on Saturday?

4 A. Yes. And again, sir, just for the
5 benefit of you, to the extent it's relevant, my
6 child was born on September 17th, so I was not
7 checking e-mail. There was an out-of-office reply
8 for me starting on the 16th. So I -- while I'm
9 seeing these now, I definitely was not responding
10 to these or looking at them.

11 Q. I gotcha. Well, let me ask you this:
12 Rob says: Happy to talk about it, Brian. Would be
13 interested to see, as we have long asked for, how
14 big the problem is, what solutions you're
15 implementing, and how effective they have been,
16 right?

17 A. Yes, that is what Rob writes to
18 Brian.

19 Q. Right. And then Rob says:
20 Understood, Rob. We will circle back over the next
21 few days to brief.

22 Right?

23 A. That is what, yes, Brian writes to
24 Rob.

25 Q. Yeah, and you may not have been that

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1 focused, given your personal situation at the time,
2 but do you know whether there was a briefing on
3 this?

4 A. I do not.

5 Q. Do you know whether Facebook talked
6 to, you know, Courtney, Rob Flaherty, DJ Patil
7 about this in your absence?

8 A. I do not.

9 Q. Exhibit 31. Do you remember this
10 e-mail from the Google/YouTube team in
11 September 29th?

12 A. So I would have been on paternity
13 leave during this time.

14 Q. Okay. And in this e-mail, they
15 report back to you and Nancy S. Negrón about --

16 A. Negrón.

17 Q. Yeah, who's she?

18 A. Nancy Negrón was my deputy director
19 of engagement.

20 Q. And they report back about having a
21 COVID-19 vaccine misinfo policy that allows them to
22 remove a limited list of verified false claims
23 about COVID vaccines, right?

24 A. Yes, that's what the e-mail says.

25 Q. And they also report back to you guys

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1 that they're introducing a new policy that
2 prohibits content that includes harmful
3 misinformation about the safety, efficacy, and
4 ingredients for the vaccines, right?

5 A. Yes, that's what the e-mail says.

6 Q. Is this an unsolicited e-mail or are
7 they responding to some kind of communication or
8 request from you guys, do you know?

9 A. I'm not positive, but it would appear
10 to be an unsolicited e-mail.

11 Q. I know that you had said earlier that
12 you reached out to Facebook, Twitter, and YouTube
13 in the aftermath of the health advisory that --
14 to -- to see what steps they were taking. Is that
15 response to that request for information?

16 A. Could be. I'm not certain, to be
17 honest with you. But based on both my departure --
18 and I think I had had an out-of-office at this
19 moment, which may have led them to add Nancy.
20 Nancy was also just coming on, and I don't think
21 her HHS e-mail had been set up yet, but I'm not --
22 I'm not positive.

23 Q. Let's look at Exhibit 32. Can you
24 see this one on screen share?

25 A. Yes, I see this note.

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1 Q. Do you remember, Rob Flaherty copies
2 you on this, the initial e-mail, to Brian Rice of
3 Facebook. Do you remember being copied on this? I
4 think you -- I think you may have said you were out
5 for 30 days. Looks like you're probably just back
6 from paternity leave, your first stint of paternity
7 leave. Do you remember this?

8 A. Yeah, I was probably just back. As
9 I'm looking at it -- hold on. I do recall that
10 for -- for vaccines for -- for kids, Kristina
11 Schake and others were leading the outreach.

12 Q. Kristina Schake, is she in the Office
13 of Surgeon General or Office for HHS?

14 A. No, she was elsewhere in HHS.

15 Q. Okay. And Rob here, I think,
16 initiates this and asks for a meeting with
17 Facebook, right?

18 A. Yes, I think to discuss outreach for
19 kids' vaccines.

20 Q. Yeah, 5 to 11 vaccine is the
21 authorization for children ages 5 to 11, right?

22 A. That's correct, and -- vaccines for
23 -- for young people ages 5 to 11.

24 Q. And he says: We'd like to talk about
25 what we're seeing as the biggest headwinds we're

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1 **going to face and discuss what you-all are planning**
2 **as we move into the next phase, right?**

3 A. Yes, that's what Rob has written to
4 -- to Brian.

5 Q. And Rob says: We remain concerned
6 about mis- and disinformation on feed and in
7 groups, and the wide reach of hesitancy inducing
8 content across your platform, right?

9 A. Yes, that's what Rob has written to
10 Brian.

11 Q. And he says: With that said, we hope
12 as ever that this will be a productive and
13 forward-looking conversation, right?

14 A. Correct, that is what Brian has -- or
15 what Rob has written to Brian.

16 Q. So Rob's asking for a meeting where
17 one of the concerns he wants to talk about is mis-
18 and disinformation on feed and in groups on
19 Facebook's platforms, right?

20 A. I'm not sure. He definitely says
21 there that he's concerned about it. But in
22 general, it seems like the subject is they want to
23 talk about headwinds. They're concerned about
24 misinformation and they want to have a productive
25 conversation about how to help on -- I think

1 probably share what the admin's plans are for the 5
2 to 11 rollout.

3 Q. And their concerns include mis- and
4 disinformation on feed and in groups, correct?

5 A. That is what Brian has -- says in his
6 e-mail.

7 Q. Rob, right? Not Brian?

8 A. Sorry, sorry. That's what Rob has
9 written to Brian.

10 Q. Yeah, and then he's -- another
11 concern is the wide reach of hesitancy-inducing
12 content across your platform, right?

13 A. Yes.

14 Q. Do you know, did this meeting
15 occur --

16 A. I'm not certain.

17 Q. -- because Rob says -- Thanks, Rob,
18 we welcome the opportunity and adding Felicia on
19 our end to help coordinate, right?

20 A. Yeah, I'm guessing.

21 Q. Did this meeting occur?

22 A. I'm not certain. Probably. If they
23 added schedulers, usually those meetings happen.

24 Q. Were you included in the meeting? I
25 mean, you're on the list of recipients. Were you

1 included in that meeting, do you recall?

2 A. I don't recall.

3 Q. How about at -- your colleague at
4 HHS, Kristina Schake?

5 A. Kristina was likely on that call.

6 Q. But you don't -- you don't know if
7 you were. Was anyone else in the Office of Surgeon
8 General on that call?

9 A. So Kristina Schake ran -- ran the
10 public engagement campaign for vaccines at HHS, so
11 that was -- we sort of took our marching orders on
12 some of those, like, public-facing pieces from
13 Kristina, so she would have led, and then possibly
14 looped in Alex Phillips, our communications
15 director, based on what they wanted us to do to
16 help -- help roll out the -- the vaccine.

17 Q. Okay. Do you have any understanding
18 of what was discussed in this meeting?

19 A. I don't recall. I don't recall if I
20 was on the -- the call or -- or what would have
21 been discussed.

22 Q. So you may have been on the call, but
23 you're not sure?

24 A. It's possible. I may have been on
25 it. I -- around this time, we ended up doing, for

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1 the rollout, an event with Dr. Biden, so I remember
2 that was sort of how we were engaging with the
3 White House on the kids' vaccine rollout.

4 Q. Let's look at Exhibit 33. Not long
5 after that Wall Street Journal article, there was
6 another Washington Post article criticizing
7 Facebook for misinformation, right? Do you
8 remember that?

9 A. I think -- is that the Frances
10 Haugen, the leaker op ed, or no.

11 Q. I believe it had to do with Frances
12 Haugen.

13 A. Okay.

14 Q. Does that ring a bell?

15 A. Yes.

16 Q. October 28th of 2021?

17 A. Yes, I do recall when the article
18 came out about the leaker, yes.

19 Q. And Dr. Murthy retweeted the article
20 on October 28th saying he was deeply disappointed
21 to read this story, right?

22 A. Yes, he -- that his -- his tweet
23 says: I was deeply disappointed to read this.

24 Q. And he refers back to the -- the
25 advisory on health misinformation and states: I

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1 **stated clearly that tech platforms have a**
2 **responsibility to improve our health information**
3 **echo system.**

4 **Right?**

5 A. Yes, that is what Dr. Murthy tweets.

6 **Q. And then he's got a several-tweet**
7 **thread on this, at the bottom, which he says: We**
8 **must demand Facebook and the rest of the social**
9 **media ecosystem take responsibility for stopping**
10 **health misinformation on their platforms. The time**
11 **for excuses and half-measures is long past. We**
12 **need transparency and accountability now. The**
13 **health of our country is at stake.**

14 **Correct?**

15 **Q. That's correct.**

16 A. That's what Dr. Murthy has tweeted.

17 **Q. Were you involved in crafting these**
18 **tweets for Dr. Murthy?**

19 A. I was involved in reviewing them. I
20 think there was a deliberation between the
21 communications team and Dr. Murthy about what the
22 content would be of this Twitter thread.

23 **Q. And were you involved in formulating**
24 **the content?**

25 A. I -- I looked at different drafts and

1 helped on different drafts, but ultimately, this
2 was a -- what Dr. Murthy ended up writing --
3 drafting himself.

4 **Q. Okay. So he was the author of the**
5 **these, principally?**

6 A. I think, again, as you know, writing
7 is a complicated process. I think there was a
8 draft from -- a draft from the -- probably -- I
9 don't recall, but my guess based on how the office
10 tended to work was there would have been a draft
11 from the communications team of a tweet thread,
12 then there was probably a version control where
13 then I maybe made some edits and I had a version,
14 and then Dr. Murthy ultimately came in and -- and
15 -- and made the final and substantial edits to what
16 he wanted there to be from -- from his Twitter
17 account.

18 **Q. Do you have an understanding --**

19 A. I'm sorry.

20 **Q. Go ahead.**

21 A. And I would say, in addition, likely,
22 and I don't recall, someone from the policy team
23 would have reviewed the content to ensure the
24 integrity of our -- you know, of our scientific
25 accuracy.

1 **Q. Do you have an understanding of what**
2 **message was being -- was intended to be conveyed by**
3 **this tweet thread?**

4 A. I mean, I think it -- I think the --
5 the tweet thread speaks for itself to say that
6 it's clearly Dr. Murthy expressing disappointment,
7 and then in the thread talking about -- I think
8 really referencing things that are referenced in
9 the advisory, doing this vis-a-vis his Twitter
10 thread about how -- why -- why it's important for
11 us to have more transparency and accountability
12 around health misinformation, especially vis-a-vis
13 the social media organizations.

14 **Q. Yeah, and the very last tweet, he**
15 **sums it up by demanding that Facebook and the other**
16 **platforms do more, or take responsibility for**
17 **stopping health misinformation on their platforms,**
18 **right?**

19 A. Yes. He writes: We must demand
20 Facebook and the rest of the social media ecosystem
21 take responsibility for stopping health
22 misinformation on their platforms.

23 **Q. And he goes on to say: The time for**
24 **excuses and half-measures is long past.**

25 **Right?**

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1 A. Yes, that's his next line in his
2 tweet thread.

3 Q. And so that was a carefully crafted
4 message. It sounds like there were a lot of people
5 who thought about exactly what to say in this tweet
6 thread, including yourself as one of them, right?

7 A. Whether it's carefully crafted or
8 not, it was lots of work went into it. I don't
9 know if that means it was careful, but I appreciate
10 what you're trying to say.

11 Q. Let me pull up Exhibit 35. That same
12 day, October 28th, that the -- the Surgeon General
13 tweeted that Washington Post article, Rob Flaherty
14 e-mailed Brian Rice a link to the same article with
15 a subject line: Not even sure what to say at this
16 point.

17 Correct?

18 A. Yes, that's Rob's e-mail to Brian.

19 Q. Yeah, so that's all he says in the
20 e-mail, he links the article and says in the
21 subject line: Not even sure what to say at this
22 point.

23 Right?

24 A. Yes, that's what his e-mail says in
25 the subject line to -- to Brian.

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1 Q. What -- let me ask you this: Was
2 there any coordination between you and your office
3 and Rob Flaherty about you have the tweets and they
4 have the e-mail of Facebook. Was that -- was that
5 just a coincidence that you both raised in
6 different venues, or was there a kind of
7 coordination there?

8 A. There was no coordination.

9 Q. So it's a coincidence that Rob
10 happened to send the same article to Brian Rice
11 that you guys had written the tweet thread for
12 about -- with Dr. Murthy on, right?

13 A. I think this was one of the most
14 popular articles in all of news that week, so I'm
15 not surprised that people who care a lot about this
16 issue were certainly hitting up Facebook about it.

17 Q. You say you both hit up Facebook in
18 different ways, right? You with a tweet thread and
19 Rob with a e-mail?

20 A. We -- we commented upon it using our
21 public platform to -- to comment upon the substance
22 of the article. And Rob e-mailed, you know, Brian.

23 Q. And -- and then Brian sent a kind of
24 response where he tries to justify what their
25 practices are and he disagrees with the analysis in

1 the article, right?

2 A. Yes, that's what Brian writes to Rob.

3 Q. And then Brian forwards that e-mail
4 chain to you, right? And a few days later, saying
5 we heard from Rob Thursday as well regarding
6 Thursday's Washington Post story, right?

7 A. Yes, Brian forwards me the
8 interaction between the two of them.

9 Q. Yeah, and then he says: I saw the
10 Surgeon General's reaction on Twitter.

11 Presumably that's a reference to the
12 Twitter thread we just looked at, right, from
13 October 28th?

14 A. Yes.

15 Q. And it says: We want to make sure
16 you have the context necessary as we feel strongly
17 the claims in the story are not accurate. Right?

18 A. Yes, that's what Brian has written to
19 me.

20 Q. Then he asks you for a meeting,
21 basically, says: Please let me know if you have
22 time for a longer conversation next week, right?

23 A. Yes, he requests a meeting by asking
24 me for time.

25 Q. Did you, in fact, meet with him, do

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1 **you recall?**

2 A. I don't think I did.

3 **Q. Did you respond to his request for a**
4 **meeting in any way?**

5 A. I probably wrote something, but maybe
6 not. I'm not sure. I tried to be responsive, but
7 I'm not sure if I wrote back. If you have that
8 e-mail, I'd be happy to look at it.

9 **Q. I'm trying to remember myself.**

10 A. If you can refresh your recollection
11 and mine at the same time, we'll call it a win.

12 **Q. Let's look at Exhibit 36. Second**
13 **page of this document, independent of the e-mail**
14 **with Rob Flaherty on the day of the Frances Haugen**
15 **article, October 28th, Nick Clegg e-mailed**
16 **Dr. Murthy directly, right?**

17 A. Yes, that first e-mail is from Nick
18 to Dr. Murthy on October 28th, yes.

19 **Q. He talks about the launching of the**
20 **Mediverse and so forth, and at the end, he talks**
21 **about the intense debate that's been prompted by**
22 **the documents that have been disclosed by a former**
23 **employee, right?**

24 A. That last paragraph, yes.

25 **Q. Yeah. That's a reference to the**

1 Washington Post article, presumably, right?

2 A. Yes, I -- yes.

3 Q. And then you're the one who responds
4 to this e-mail, scrolling up to the first page, on
5 the next day, October 29th. You send an e-mail to
6 Nick Clegg and Brian Rice. You're kind of omitting
7 Dr. Murthy from the e-mail chain, right?

8 A. That's correct.

9 Q. Yeah. And you mention that -- you
10 thank him for the note to Dr. Murthy, and you say:
11 I did want to say that we have seen the recent
12 public reports around Facebook and the
13 misinformation, right?

14 A. Yes.

15 Q. And you say: We're certainly
16 concerned about what we are seeing, given our
17 emphasis on health misinformation in our advisory
18 and the ongoing conversation our teams have been
19 having.

20 Right?

21 A. Correct.

22 Q. Are there any conversations your
23 teams have been having at this stage that we
24 haven't covered by talking about these e-mails and
25 so forth in your testimony today?

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1 A. No.

2 Q. So there's -- go ahead.

3 A. Sorry, sir. Can you repeat your
4 question?

5 Q. Yeah. Were there any other
6 conversations in this period from July and October
7 of 2021 between your teams about misinformation?

8 A. Not to my knowledge.

9 Q. You go on to say: As has been the
10 case, you'll continue to see us raising the issue
11 of health misinformation in public and private as a
12 critical public health issue.

13 Right?

14 A. Yes, that's what I write.

15 Q. Yeah. What -- what are the private
16 conversations where you're going to continue
17 raising the issue of health misinformation?

18 A. I assume in that -- in the context of
19 that -- of that e-mail, I think I'm trying to say
20 we're going to talk, this is an issue we've raised
21 as a priority, that we -- that's why we issued an
22 advisory, and when people come and talk to us,
23 whether it's at a -- a panel or on Meet the Press,
24 or it's a meeting with a stakeholder that's in
25 private, they'll say what are your issues of

1 importance?

2 And you'll see Eric Waldo or
3 Dr. Murthy or whomever would stand up and say the
4 issues we're talking about are: Health
5 misinformation, youth mental health, workplace
6 mental health, clinician burnout, et cetera. So
7 that's one of the issues that we were going to keep
8 talking about.

9 **Q. How about that issue of -- that used**
10 **the word "private". What are the private**
11 **conversations where you raise it?**

12 A. Again, I think as I've just
13 mentioned, sir, as you know, in the government,
14 you're not always just doing a panel that's open
15 press, you're meeting with stakeholders, you know,
16 in closed-door meetings and they ask you what your
17 priority areas are or what areas they might want to
18 partner with you.

19 And so my philosophy as a chief --
20 you know, as a public engagement official is that
21 -- explain to anyone who work -- who's working with
22 us or meeting with us overall what our office is
23 focused on. And certainly at this time, in
24 nonpublic meetings, I was telling people of any
25 kind, whether it was one at the PTA or someone else

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1 to say when someone says, what is the Surgeon
2 General interested and what is he working on, I'd
3 say: You saw that we issued -- we're working on
4 COVID-19. You saw us issue an advisory on health
5 mis- and disinformation. You saw, you know, coming
6 soon, youth mental health, workplace mental health,
7 clinician burnout, social isolation and loneliness.

8 So I would say that talking about
9 health mis- and disinformation was in our talking
10 points of when we talked to stakeholders in public
11 and private.

12 Q. You say talking points. I think you
13 referred to them this morning, too. Did you
14 actually have literal talking points when you would
15 go into these meetings, and specifically the
16 meetings with social media platforms? Did you talk
17 to them about the meetings --

18 A. No.

19 Q. Would you actually have a document
20 that was your talking points?

21 A. No.

22 Q. Okay. So you're referring to them
23 kind of virtually or analogously?

24 A. Yeah. I think when you're trying to
25 describe any office you work in or that I've worked

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1 in, you want to be able to have the elevator pitch
2 of what you're working on and ways you want to
3 collaborate and what your priorities are.

4 Q. In this e-mail that's on the screen,
5 Exhibit 36, you know, you said that point about
6 the -- that we just discussed. And Brian responds
7 by asking you for a meeting, and I think you
8 responded, "Let me get back to you next week once
9 we're done crashing on our rollout of vaccines
10 5-11." Right?

11 A. Yes.

12 Q. So you kind of put him off. Did you
13 ever give him that meeting, do you recall?

14 A. I don't think I did.

15 Q. Okay.

16 A. But I'm not sure. If you can show me
17 that meeting, I'm happy to talk about it, or not
18 remember it, but I -- I don't -- I don't think --
19 I -- I was not -- I was not looking to spend more
20 time with Brian or folks at Facebook.

21 Q. Was it -- was it a tense relationship
22 by this stage?

23 A. No. Actually, I think as we've
24 discussed, you know, I think the Surgeon General's
25 office, I think we felt like we raised the issue,

1 and that as I mentioned before in the conversation,
2 you know, we had other priorities that we needed to
3 move on to, and with a, you know, small but mighty
4 team and limited bandwidth, we had done our part in
5 -- in the relay race of policy work, and we're now
6 trying to continue to move on to other priority
7 areas.

8 Q. Can you look at Exhibit 37, which is
9 up on the screen?

10 A. Sure.

11 Q. Taking this -- scrolling down to the
12 bottom, so we're taking these e-mails in kind of
13 chronological order, there's an e-mail from Brian
14 Rice to Rob Flaherty, you, Courtney Rowe, and Becca
15 Siegel. Do you see that?

16 A. I do.

17 Q. So that's dated October -- Friday,
18 October 29th, right?

19 A. Yes, yes. Sorry, I was looking at
20 the e-mail above that. Yes, the Friday, October
21 29th e-mail, yes. COVID insights and plan for
22 approval of kids' vaccines, yes.

23 Q. And then he says: Thanks again -- in
24 the beginning of this, he says: Thanks again for
25 taking the time to meet with us on Monday. Right?

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1 A. Yes.

2 Q. Okay. Do you remember that meeting?

3 It sounds like you and Rob Flaherty and Courtney
4 Rowe and Becca Siegel were involved in that?

5 A. So I think that's what you were
6 asking me before when they -- when Rob asked for
7 time to talk about the kids' vaccine rollout, and I
8 said I wasn't sure if I attended. So it looks like
9 I probably did, if he's addressed -- or he's just
10 still cc'ing me and thanking Rob and Courtney, or
11 folks who attended the meeting.

12 Q. So you're still not sure whether
13 you -- I take it this would have been -- if this is
14 the 29th, that meeting would have happened on
15 Monday the 25th, right?

16 A. That sounds right.

17 Q. And you don't -- you still -- based
18 on this, you're still not sure whether you're at
19 that meeting, right?

20 A. I honestly don't recall.

21 Q. Okay.

22 A. Again, we had a launch that we were
23 doing with Dr. Biden for kids' vaccine, and that
24 was taking a lot of my time.

25 Q. In this e-mail, one of the first

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1 things they say is: As discussed -- so discussed
2 in the meeting. As soon as the EUA is issued -- I
3 take it that's the emergency use authorization --
4 for vaccines for children 5 to 11, we will also be
5 able to apply claims for our current misinfo
6 policies for COVID-19 vaccines to include claims
7 about child vaccinations, right?

8 A. Yes, that's what he's written in this
9 e-mail.

10 Q. So do you remember him being -- he
11 says that -- he indicates that was discussed in the
12 meeting on October 25th. Does that ring a bell?

13 A. Okay.

14 Q. Do you remember them discussing that
15 they were going to expand their misinformation
16 policies to include claims about child vaccination?

17 A. As I mentioned, I'm not sure if I
18 attended this meeting, but I don't recall.

19 Q. Yeah, so none of this rings a bell
20 about several -- they say several claims that we
21 will be able to remove as soon as the CDC debunks
22 them, such as COVID vaccines giving children Bell's
23 palsy and blood clots and so forth.

24 Does that ring a bell at all?

25 A. It does not.

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1 Q. Do you remember the CDC being
2 mentioned in any conversations with Facebook about
3 misinformation?

4 A. I do not.

5 Q. And this e-mail is actually sent to
6 you guys the day after -- I guess, yeah, the day
7 after the Frances Haugen article and Surgeon
8 General Murthy's tweet, right?

9 A. That sounds correct.

10 Q. Yeah, October 28th was the date of
11 those, and October 29th is the date of this e-mail?

12 A. Okay.

13 Q. Yeah, so immediately after -- the day
14 after that tweet, Facebook e-mails the group of you
15 and reports back how they're going to apply their
16 current misinfo policies to things about child
17 vaccination, right?

18 A. That is the day after, correct.

19 Q. Yeah, and then they follow up again,
20 if you scroll back up, on the next Thursday,
21 November 4th, where Brian Rice says to you he
22 wanted to follow up and share what steps we've
23 taken over the last several days, as the FDA and
24 CDC approvals have now been granted, right?

25 A. Yes.

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1 Q. And it says: Last Friday, we updated
2 our misinformation policies for COVID-19 vaccines
3 to make clear that they apply to claims about
4 children, including Bell's palsy and blood clots
5 and multiple sclerosis, right?

6 A. Yes, that's what the e-mail says.

7 Q. So -- and this would be a, I guess,
8 less than a week after the tweets about the Frances
9 Haugen article, correct, where they're giving you a
10 second update about applying their misinformation
11 policies to content about child vaccination, right?

12 A. That's correct.

13 Q. Let's briefly look at Exhibit -- just
14 a second.

15 MR. SAUER: David, what's our
16 on-the-record time? You're muted.

17 THE VIDEOGRAPHER: One second,
18 please. We are at 5:42.

19 Q. (BY MR. SAUER) Okay. Let's look at
20 Exhibit 38. After that Washington Post article on
21 October 28th, the Surgeon General gave a series of
22 public statements and podcasts where he talked
23 about health -- or speeches where he talked about
24 health information, correct?

25 MS. CHUZI: Counsel, the exhibit is

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1 not on the screen. I don't know if you intended to
2 pull it up just yet, but it's not on the screen.

3 Q. (BY MR. SAUER) Following that
4 October 28th Washington Post article, did the
5 Surgeon General do a series of public statements
6 and podcasts and so forth about health
7 misinformation?

8 A. I'm not sure.

9 Q. Okay. Do you remember a discussion
10 after the October 28th article of having the
11 Surgeon General's office take a more proactive role
12 in using the bully pulpit, so to speak, to
13 emphasize the issue of health misinformation?

14 A. After the October 28th meeting?

15 Q. October 28th, Washington Post
16 article.

17 A. I do not recall that.

18 Q. Okay. For example, here's a podcast
19 that the Surgeon General gave on December 21st,
20 2021. Does that ring a bell? Did you know he was
21 doing that podcast?

22 A. The podcast -- podcast was part of
23 the communications team, so Alex Phillips was the
24 one -- this is -- goes within the press team, so my
25 team wasn't responsible for preparation or creation

1 of the podcast outreach, so I probably knew about
2 it right before it happened, but I wasn't tracking
3 it.

4 Q. And were you involved in kind of
5 formulating his remarks for the podcast or anything
6 like that?

7 A. I was not.

8 Q. Okay. Just real briefly, then, if
9 you scroll down, there's a little bit of it that's
10 transcribed by a court reporter here where he says:
11 I think, number 1, we have to track down where this
12 misinformation is coming from and understand how to
13 hold the platforms accountable, new technology
14 platforms that are driving so much of the
15 misinformation spread.

16 Right?

17 A. Yes, I -- I can see that.

18 Q. That's another emphasis on the points
19 that are raised in the health advisory, right,
20 about holding them accountable for the spread of
21 misinformation on their platforms?

22 A. Yes, this is consistent with his
23 previous statements as well as the content within
24 the advisory itself.

25 Q. And he says: They, the platforms,

1 are subjecting people in the United States and
2 around the world to extraordinary harm, and they're
3 doing so with little accountability and very little
4 transparency, right?

5 A. Yes. That is what he says on this
6 transcript.

7 Q. And he says: That can't be allowed
8 to continue because it's putting everyone's health
9 at risk.

10 Right?

11 A. Yes, that's what Dr. Murthy says.

12 Q. And he also says: I do think that
13 part of what they have to do, the platforms, is
14 take aggressive action against people who are
15 intentionally spreading misinformation.

16 Right?

17 A. Yes, that's what he says in this
18 podcast.

19 Q. Okay. And does that reflect kind of
20 the -- that kind of reflect or re-emphasize the
21 message in the health advisory?

22 A. I think this is consistent with the
23 messaging we've reviewed all day today of the
24 advisory, the rollout, and public statements, yes.

25 Q. Were -- in this time frame, now we're

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1 to December of 2021, were there more communications
2 with the social media platforms directly, in
3 private, you know, that relate to them taking more
4 aggressive action against people spreading
5 misinformation?

6 A. In December of 2021?

7 Q. Yeah.

8 A. Not to my knowledge.

9 Q. Do you remember any -- any -- let me
10 ask this: In the period between October of 2021
11 and December of 2021 or January of 2022, were
12 there -- do you recall any communications with any
13 of those social media platforms?

14 A. I do not.

15 And, sir, I think I just want --
16 again, I mentioned at the top, but I'll remind you,
17 since it sounds like we're starting to get into
18 2022, I was on paternity leave sort of January
19 through early March of -- of 2022.

20 Q. So you -- you may not be aware
21 whether or not people in the Surgeon General's
22 office had communications with social media
23 platforms in that time frame?

24 A. It's possible that it could have
25 occurred while I was on leave, but I would assume I

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1 would have been informed about those meetings when
2 I returned.

3 **Q. Were you informed about any meetings**
4 **like that?**

5 A. I mean, in general, I was checking in
6 with my team about major issues. And I think,
7 given the scrutiny that we had seen from this
8 issue, I -- I think the team would have told me if
9 there had been a lot of meetings with Facebook or
10 other social media companies.

11 **Q. Are you aware of any meetings between**
12 **anyone in the Surgeon General's office and any**
13 **social media platforms anytime from October of 2021**
14 **through March of 2022?**

15 A. Not to my knowledge.

16 **Q. And I take it during a lot of that**
17 **time from January to March, you were out on kind of**
18 **the second part of your paternity leave, right?**

19 A. That's correct.

20 **Q. Let me call up Exhibit 39 real**
21 **quickly. Can you see this Surgeon General Murthy**
22 **on COVID mental health and Alyssa Milano's podcast**
23 **Sorry, Not Sorry?**

24 A. I do see that this is a podcast, yes.

25 **Q. And I take it this podcast occurred**

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1 **on January 3rd, 2022. Does that ring a bell?**

2 A. So, again, I would have been out on
3 leave, but I remember that we were trying to
4 schedule this podcast.

5 **Q. Okay. But you --**

6 A. I think it was -- it was a
7 rescheduled multiple times.

8 **Q. Okay. And why was it rescheduled?**

9 A. Scheduling.

10 **Q. Those people had conflicts or Surgeon**
11 **General had conflicts?**

12 A. Correct.

13 **Q. And, again, were you involved in sort**
14 **of inputting into the kind of message that would be**
15 **conveyed in this podcast?**

16 A. No, that would have been designed by
17 the communications team.

18 **Q. Who's that, by the way? Does that**
19 **include Alexandria Phillips?**

20 A. Yeah, so Alexandria Phillips is the
21 communications director, and was the communications
22 director at the time.

23 **Q. Who else is on that team?**

24 A. The team has grown. She has a press
25 secretary, a chief of staff, a digital director, a

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1 speech writer, a sort of a correspondence
2 story-bank person as well. Those are some of the
3 staffers that I'm aware of.

4 Q. Okay. Let me actually turn to --
5 direct your attention to the transcript of
6 Dr. Murthy's comments here in January of 2022.
7 He's talking to the -- the host of the podcast, and
8 he says, among other things -- sorry, I'm in the
9 wrong spot. Unless those platforms step up and
10 make their spaces safer and reduce the amount of
11 misinformation on their site, it's going to be
12 pretty tough to get a full handle on the spread of
13 misinformation.

14 Right?

15 MS. CHUZI: Objection. I'd like to
16 call attention to the portion of this transcript
17 that says that it is not necessarily an accurate
18 transcription.

19 Q. (BY MR. SAUER) Sure. Do you see
20 there where the transcript reports he said: Unless
21 those platforms step up and make their spaces safer
22 and reduce the amount of misinformation on their
23 site, it's going to be pretty tough to get a full
24 handle on the spread of misinformation? Do you see
25 that?

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1 A. I do see that.

2 Q. Yeah, and is that -- do you have any
3 reason to doubt that that's what Dr. Murthy said in
4 this podcast?

5 A. That -- I have not listened to the
6 podcast, I've not read the transcript before this
7 moment, but those talking points or that statement
8 seems aligned with the other -- with the advisory
9 and the other public statements we've seen thus
10 far.

11 Q. And -- and so that would be
12 consistent with all the messages we've talked about
13 today in this deposition from Dr. Murthy and your
14 office?

15 A. Yes.

16 Q. And then the podcast cuts to a -- a
17 -- a quote of President Biden, you see that,
18 saying: The unvaccinated are responsible for their
19 own choices, but those choices have be shulled
20 (sic) by dangerous misinformation on cable TV and
21 social media.

22 Correct?

23 A. Do you think that means shilled? I
24 don't -- I don't know what shulled means.

25 Q. Yeah, let me ask you this: Do you

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1 recall any discussion of using this quote from
2 President Biden in the podcast, along with
3 Dr. Murthy's comments?

4 A. No, I do not.

5 Q. And President Biden goes on to say:
6 You know these companies and (inaudible) are making
7 money by peddling lies and allowing misinformation
8 that can kill their own customers and their own
9 supporters. It's wrong.

10 Right?

11 MS. CHUZI: Objection.

12 Mischaracterization of the record.

13 Q. (BY MR. SAUER) Do you see where it
14 says that?

15 A. I see that that is the -- the quote
16 from President Biden that says: You know, these
17 companies and blank are making money by -- it says
18 pedally -- lies and allowing misinformation that
19 can kill their own customers and their own
20 supporters. It's wrong.

21 Q. Do you remember President Biden
22 saying that?

23 A. Not really.

24 Q. He goes on to say in the quote: Not
25 just it's wrong, but it's immoral. I call on the

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1 purveyors of these lies and misinformation to stop
2 it. Stop it now.

3 Correct?

4 A. That is -- you're -- that is a
5 correct reading of this transcript.

6 Q. Was it -- was it -- do you know if it
7 was the Surgeon General's office's idea to use that
8 statement from President Biden in connection with
9 Surgeon General Murthy's comments calling upon the
10 technology companies to step up and make their
11 spaces safer and reduce the amount of
12 misinformation on their sites?

13 A. Sir, I know you just repeated the
14 quote, but can you repeat the question?

15 Q. Was it the Surgeon General's office's
16 idea to use President Biden's strongly worded quote
17 in connection with Dr. Murthy's comments in his
18 podcast?

19 A. I don't know. But my strong
20 speculation would be that we did -- the podcasts
21 that we went on were edited and run by whomever to
22 the -- to the desires of those podcast folks.

23 Q. On the next page, the transcript
24 reports that Dr. Murthy said: We're also asking
25 them to go after people who are superspreaders of

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1 **misinformation on these sites, that they're causing**
2 **harm.**

3 **Correct?**

4 A. That is what the transcript says,
5 correct.

6 **Q. And so that's consistent with Surgeon**
7 **General Murthy's prior public and private**
8 **statements asking the social media companies to**
9 **take action against superspreaders of**
10 **misinformation, right?**

11 A. I consider that consistent, yes.

12 **Q. And in a sense, it kind of reinforces**
13 **the prior messaging going back to at least**
14 **July 15th, right?**

15 A. I think it's consistent with -- I
16 think it's entirely consistent and -- with the
17 messages that Dr. Murthy was sharing about health
18 mis- and disinformation.

19 **Q. Let's look at Exhibit 41.**

20 MR. SAUER: Amanda, this should be in
21 the third e-mail I sent you at the beginning of the
22 break.

23 **Q. (BY MR. SAUER) Here's a**
24 **February 14th, 2022, panel discussion involving**
25 **Dr. Murthy. I take it this would have happened**

1 **when you were out on paternity leave as well,**
2 **correct?**

3 A. Yes, I was on paternity leave at the
4 time of this panel.

5 Q. Okay. Did you know that the Surgeon
6 General was involved in this panel hosted by the
7 Rockefeller Foundation?

8 A. I don't recall. I don't -- I wasn't
9 aware of this panel.

10 Q. Okay. Let's look at quickly, then --
11 I'm going to flip ahead to page 10 of the
12 transcript. It talks about the speed scale and
13 sophistication with which misinformation is
14 spreading, right?

15 A. Yes.

16 Q. And it talks about how it's been
17 enabled, in fact, by technology platforms, right?

18 A. Correct.

19 Q. And again, that's, I take it,
20 consistent with the prior messaging that we
21 discussed today, from --

22 A. Yes, I think this is -- yes, this
23 looks like a consistent message with what we've
24 seen in previous public statements, interviews, as
25 well as the advisory itself.

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1 **Q. And is it also true that these kinds**
2 **of messages were conveyed in private meetings and**
3 **conversations that we've talked about today?**

4 A. I think -- I don't have any -- any
5 update for what I've described about the private --
6 about the private meetings. If I didn't recall
7 what had, then I don't recall. And if I said I
8 recalled something, then that's the description. I
9 don't have an update for those meetings.

10 **Q. Lower on the page, he says: We**
11 **certainly need technology companies to step up and**
12 **do more to help reduce this spread of**
13 **misinformation and to be transparent with the**
14 **public about how much misinformation is being**
15 **transacted on their sites and so forth.**

16 **Right?**

17 A. Yes, you've read that accurately.

18 **Q. Yeah. And that, I take it, is very**
19 **consistent with the message of the health advisory,**
20 **right?**

21 A. Yes. I think the message of -- of
22 asking an all-society approach, including
23 technology companies, to do more at a moment of a
24 pandemic and public health crisis is consistent
25 with Dr. Murthy's messaging.

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1 Q. On the next page here, page 11 of the
2 transcript, he goes on to say: And of course,
3 there's a role for government here as well to set
4 safety standards to push for transparency and
5 accountability particularly from platforms.

6 Right?

7 A. Yes, that is the -- that is an
8 accurate reading of -- of what the transcript
9 that's being shown on the screen.

10 Q. What does he mean, to your
11 understanding, about the role of the government in
12 setting safety standards when it comes to
13 misinformation?

14 A. He says: And of course, there's a --
15 can I take a look at this for a second?

16 Q. Sure.

17 A. I just want to make sure I'm reading
18 it in the right context.

19 Okay. I don't know what he means by
20 safety standards, but he, in the next sentence,
21 talks about that -- that his office can call
22 attention to these challenges, which is what my
23 office is doing. So, again, I think as we've
24 described previously, I think the role of the
25 Surgeon General is to help call attention to issues

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1 of -- of national public health import.

2 Q. Of course he says: And also to call
3 attention to these challenges.

4 So calling attention is in addition
5 to setting safety standards. Has there been any
6 discussions in the Surgeon General's office about
7 the government setting safety standards when it
8 comes to misinformation issues?

9 A. Not -- not to my knowledge.

10 Q. So do you know what Dr. Murthy's
11 talking about here?

12 A. I do not.

13 Q. Two pages later, he says: I would
14 submit this is what we need the platforms to do is
15 we can't, I think, tolerate an environment anymore
16 where platforms are saying no, we're trying our
17 best, even though it's not good enough. That's --
18 that's not good enough for society.

19 Correct?

20 A. That is an accurate reading of that
21 transcript as presented on this screen.

22 Q. And that's consistent with the
23 messaging of the health advisory and he emphasizes
24 that message, correct?

25 A. I think -- I think, again, it's

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1 consistent with the theme of we're asking people to
2 do more at the time of a public health crises where
3 people are dying every day during a historic
4 pandemic.

5 Q. He goes on to say: We're seeing the
6 harms that are being visited upon us in terms of
7 not just COVID information, and you know, illness
8 and death, but in a whole range of other
9 circumstances, other than COVID information.

10 What other circumstances is he
11 talking about, do you know?

12 A. I don't know.

13 MS. CHUZI: Counsel, I think we're at
14 the six-hour mark. I think we've been going for an
15 hour if my -- if my counting is accurate. I'm
16 wondering if now would be a good time to take a
17 break?

18 MR. SAUER: Yeah, it sure is, and it
19 will give me a chance to cull through -- we are at
20 breaking point, but give me a chance to
21 whip through the last few exhibits and see what I
22 can pull out and see how quickly we can wrap up.

23 THE VIDEOGRAPHER: The time is
24 3:29 p.m. We are off the record.

25 (A short break was taken.)

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1 THE VIDEOGRAPHER: The time is 3:41
2 p.m. Central Standard Time. We are back on the
3 record.

4 Q. (BY MR. SAUER) Mr. Waldo, you're
5 aware that on March 3rd the Surgeon General's
6 office issued a Request For Information about
7 social media misinformation. You recall that?

8 A. Yes.

9 Q. Yeah. And here on the screens share,
10 I'm showing you Exhibit 42 that I previously
11 e-mailed your counsel. (Technical difficulty) this
12 the RFI --

13 A. That's correct.

14 Q. -- on here, right? Yeah. Called
15 Impact of Health Misinformation on the Digital
16 Information Environment in the United States
17 Through the COVID-19 Pandemic Request for
18 Information, right?

19 A. That's correct.

20 Q. And were you involved in formulating
21 this RFI at all?

22 A. I was involved in meetings where the
23 -- where there was a discussion about whether or
24 not to do this RFI or for the overall strategy
25 around -- around this data by -- with -- with the

1 team, yes.

2 Q. Overall strategy. What overall
3 strategy was there with -- regarding this RFI?

4 A. I'm sorry, I didn't say strategy
5 about this RFI. Strategy whether or not there was
6 going to be additional data requests to make and
7 how to make them.

8 Q. Oh. You mean additional data
9 requests. What do you mean by that?

10 A. I mean -- I shouldn't say additional.
11 I think there was a question of whether or not we
12 were going to -- going to make questions, you know,
13 ask for -- given that the -- given the
14 conversations with Facebook and others, was there
15 something more constructive we could do around
16 helping researchers have a better understanding of
17 what's happening in this community. And so
18 ultimately, the RFI was -- was determined as the
19 path forward.

20 Q. Okay. So were there other paths
21 forward (technical difficulty) Surgeon General's
22 office --

23 (A discussion was held off the
24 record.)

25 Q. (BY MR. SAUER) Were there other

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1 paths forward about COVID-19 misinformation that
2 the Surgeon General's office did or was this the
3 only one at this time?

4 MS. CHUZI: Objection. To the extent
5 that question calls for information covered by the
6 deliberative process privilege, I will instruct the
7 witness not to answer.

8 THE WITNESS: On the advice of
9 counsel, I will not answer the question.

10 Q. (BY MR. SAUER) I'm not asking about
11 deliberations. I'm asking if there were actions
12 taken. Did the Surgeon General's office do
13 anything other than RFI to address issues of COVID
14 misinformation in this time frame?

15 A. Not to my knowledge.

16 Q. Scrolling down, were you involved in
17 formulating, you know, kind of what kind of
18 information to ask for here in the RFI?

19 A. No.

20 Q. Who was involved in formulating kind
21 of the specific types of information to ask for?

22 A. I think Kyla was the primary driver
23 on the RFI from a content expert perspective.

24 Q. That's Kyla Fullenwider?

25 A. That's correct.

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1 Q. Do you know if she had input from
2 Renee DiResta or other academics in formulating the
3 RFI?

4 A. I do not.

5 Q. Do you know -- do you know who she --
6 who she would have worked with in formulating it?

7 A. I do not.

8 Q. Do you know if anyone besides Kyla
9 had any input into what information to ask for?

10 A. I know that Kyla was running these
11 ideas by Max Lesko from an -- more of a process,
12 getting Dr. Murthy's input perspective. More or
13 less of a content expertise perspective. But I
14 think she certainly ran this by Max.

15 Q. And that was to get Dr. Murthy's
16 approval on the approach taken?

17 A. I believe so, yes.

18 Q. Do you know if Dr. Murthy provided
19 input on the content of the RFI, asked for this
20 information, that kind of thing?

21 A. I'm not certain.

22 Q. Anyone else you know of besides
23 Dr. Murthy, Max Lesko, and Kyla Fullenwider
24 involved in the formulation of the RFI?

25 A. Not to my knowledge.

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1 Q. What is Kyla's role in the Surgeon
2 General's office in this time frame? I remember
3 she's in US Digital Response. Is she a -- an
4 employee of the Surgeon General's office by now or
5 what's her formal role?

6 A. I'm not certain how -- what was the
7 mechanism for how she was employed out of HHS, but
8 I know she was doing work on behalf of the Surgeon
9 General.

10 Q. The RFI here on the -- I think it's
11 on the second page of the document -- asks for
12 information about technology platforms, correct?

13 A. What page are you on, sir?

14 Q. Second page of the document, here
15 down in the bottom right, column number 2,
16 Information about Technology Platforms.

17 A. Yes. That's correct.

18 Q. And it asks number 3: Information
19 about how widespread COVID-19 misinformation is on
20 individual technology platforms including general
21 search engines, content sharing platforms, social
22 media platforms, e-commerce platforms, crowdsourced
23 platforms, and instant messaging systems, correct?

24 A. That's correct.

25 Q. Were there discussions -- general

1 search engines, that's like Google, right?

2 A. I assume so.

3 Q. What's a content sharing platform?

4 Is that like Reddit?

5 A. I'm not certain. I don't -- I'm not
6 sure what the technical definition is there, but
7 it --

8 Q. Do you know what kind of platform --

9 A. Because that seems -- that seems
10 different than social media.

11 Q. Yeah, what kind of platforms are they
12 referring to there, do you know?

13 A. I do not.

14 Q. It goes on to say social media
15 platforms, then e-commerce platforms. What are
16 those?

17 A. I presume places where you -- where
18 e-commerce occurs so...

19 Q. eBay, Amazon, places like that?

20 A. I think -- I definitely would think
21 Amazon, yeah.

22 Q. What -- were there discussions that
23 you're aware of about COVID misinformation being
24 shared on e-commerce platforms?

25 A. I recall at some point in the rollout

1 Kyla sharing with me just from a factual
2 perspective that on sites like Amazon it was
3 possible to also spread health mis- and
4 disinformation based on promotion of, you know,
5 certain -- I think the algorithm could promote if
6 you like this, buy this, and maybe promoting
7 conspiracy theories.

8 **Q. So conspiracy theories about COVID or**
9 **other conspiracy theories?**

10 A. I think it was about COVID but I
11 don't truly recall.

12 **Q. Okay. What are crowdsourced**
13 **platforms?**

14 A. I'm not sure what the technical
15 definition is of a crowdsourced platform.

16 **Q. Do you know what platforms are being**
17 **referred to there in that -- in that phrase?**

18 A. As I said just now, I don't know what
19 crowdsourced platforms means in the context of this
20 document.

21 **Q. So one of the things that's asked for**
22 **here is aggregate data and analysis on the**
23 **prevalence of COVID-19 misinformation on individual**
24 **platforms including exactly how many users saw or**
25 **may have been exposed to instances of COVID-19**

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1 **misinformation, right?**

2 A. Yes, that's what the RFI says on that
3 paragraph.

4 **Q. Is that the kind of data that you**
5 **guys have been asking Facebook for in the meetings**
6 **in 2021 where you talked about data transparency?**

7 A. It appears to be a version of that,
8 yes.

9 **Q. Scrolling down here at number 5, it**
10 **says information about the sources of COVID-19**
11 **misinformation. Do you see that?**

12 A. I do see that.

13 **Q. And it asks for information about the**
14 **major sources of COVID-19 misinformation associated**
15 **with exposure, correct?**

16 A. That is what 5 sub bullet A says,
17 correct.

18 **Q. What does "associated with exposure"**
19 **mean there?**

20 A. It says -- I'm not sure technically.
21 It says information about COVID -- resources about
22 COVID-19 misinformation. Information about the
23 major sources of COVID-19 misinformation associated
24 with exposure. I don't -- let's see, does it have
25 the definition in there further down?

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1 Q. I don't recall. I guess up here it
2 says --

3 A. Sorry. I was trying to look. Yes.

4 Q. Seeing content in news feeds and
5 exposure.

6 A. Yeah, okay. So it seems to be saying
7 that information associated with seeing the content
8 in news feeds and search results are
9 algorithmically nominated content.

10 Q. It goes on under little I there to
11 say: By source, we mean both specific public
12 actors that are providing misinformation as well as
13 components of specific platforms that are driving
14 exposure to misinformation, correct?

15 A. Yes, that's what the document says.

16 Q. So the RFI is actually seeking
17 information about specific speakers or posters on
18 social media platforms that spread misinformation,
19 right?

20 A. I'm not sure, because earlier, you
21 highlighted that it talks about aggregate data and
22 I'm pretty sure the document also talks about
23 anonymity.

24 Q. So you think that specific public
25 actors does not refer to specific people who spread

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1 **-- provide misinformation?**

2 A. It may, but I'm pretty sure in this
3 document there's some sort of caveat about having
4 to submit anonymized data.

5 Q. Okay. That would be an indicator of
6 people who are reviewing it, right, the people
7 exposed to the misinformation, right?

8 A. I'm sorry. Say again, sir.

9 Q. Doesn't the anonymized data refer to
10 the users who are exposed, not the public actors
11 who are providing this information?

12 A. I'm not sure. If you can bring up
13 that portion of the document, I'm happy to take a
14 look. But I'm pretty sure in general when the
15 federal government does requests for information
16 like this, there are various stipulations that have
17 to be made to -- for -- to ensure that there's
18 anonymized data.

19 Q. Let me ask you this. I believe there
20 was a plan expressed by the Surgeon General's
21 office to render any comments received in response
22 of this information public, right, to publicly post
23 them?

24 A. Are you asking -- can you repeat the
25 question? It sounded like a statement.

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1 Q. Did the -- did the Surgeon General's
2 office announce that it would publicly post all the
3 comments received in response to this RFI?

4 A. I don't know.

5 Q. Was there a -- do you recall a policy
6 of that?

7 A. I don't know. In my other life
8 working in government for, like, noticing common
9 rule making, which I'm sure you know from your law
10 school days, there was requirements about public --
11 making public comments, but I'm not sure if that
12 refers to RFIs as well.

13 Q. Let me ask this. Do you know whether
14 the comments received in response to this RFI have
15 ever been published?

16 A. I'm -- I'm not aware of whether they
17 have or not.

18 Q. And we submitted a FOIA request for
19 them months ago and haven't received any yet. Are
20 you aware of that?

21 A. I am not.

22 Q. So you don't know whether the Surgeon
23 General's office ever made these -- the comments it
24 received public?

25 MS. CHUZI: Objection. Asked and

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1 answered.

2 Q. (BY MR. SAUER) Fair to say?

3 A. As previously stated, I do not know.

4 Q. Let's look at Exhibit 44.

5 MR. SAUER: Amanda, I e-mailed these
6 right as the break was ending, and it was a big
7 group of exhibits.

8 MS. CHUZI: Yes.

9 Q. (BY MR. SAUER) Here's an article
10 from The Hill the same day as the -- the RFI went
11 out entitled Surgeon General Demands Data on
12 COVID-19 Misinformation From Major Tech Firms. Do
13 you see that?

14 A. I do.

15 Q. That -- focusing on that word
16 "demands," I recall that kind of description of
17 this being repeated in other media articles. Did
18 you view the -- does the Surgeon General's office
19 review the article as demanding information?

20 A. Not to my knowledge. It's a -- by
21 definition, an RFI is a voluntary request for
22 information.

23 Q. Did the Surgeon General's office take
24 any steps to, you know, have the public messaging
25 reflect the description of this RFI as a demand for

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1 information?

2 A. Not to my knowledge.

3 Q. Do you know if the communications
4 team was involved in talking to the reporters like
5 this Brad Dress who reported on it?

6 A. I don't know.

7 Q. Were you involved in any
8 communications with reporters?

9 A. I was not. Again, I was actually
10 still on paternity leave at this point, sir.

11 Q. Oh, March 3rd, you weren't back yet?

12 A. Yeah, so our nanny canceled on us, so
13 I had to be on leave for another week.

14 Q. Oh. Okay. Okay. Do you -- so do
15 you -- well, let me ask -- let me search another
16 exhibit.

17 Did the Surgeon General's office take
18 any steps to try and encourage social media
19 platforms to -- to respond to the RFI?

20 A. I believe that the chief of staff,
21 Max Lesko, sent the RFI to contacts at various
22 social media organizations.

23 Q. And that would include Facebook,
24 right?

25 A. Correct.

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1 Q. And here, for example in Exhibit 45,
2 there's an e-mail from Max Lesko to Nick Clegg and
3 Brian Rice and someone else at Facebook with a
4 letter from the U.S. Surgeon General attached,
5 correct?

6 A. Yes, that's an e-mail from Max Lesko
7 to Nick Clegg, Brian Rice, and Nathaniel Gleicher.

8 Q. And it indicates that he's attached a
9 letter from Surgeon General Murthy to Mark
10 Zuckerberg, right?

11 A. That's correct.

12 Q. And he says -- also says: Let me
13 know if I can be helpful with respect to the
14 request for information which has been sent to the
15 Federal Register and expect to receive submissions
16 in the coming days. Correct?

17 A. Yes, that's what Max has written to
18 -- to those individuals.

19 Q. And so the Surgeon General's office
20 e-mailed a link to the RFI to Facebook and also
21 attached a letter directly from Surgeon General
22 Murthy to Mark Zuckerberg, right?

23 A. That is what the e-mail says, yes.

24 Q. And then Exhibit 46. And this is --
25 is this actually the letter from Surgeon General

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1 **Murthy to Mark Zuckerberg dated March 3rd, 2022**
2 **that Max Lesko e-mailed?**

3 A. It would appear so.

4 Q. Yeah, let me put it on the screen
5 **share. And the purpose of this letter is to**
6 **encourage Facebook to participate in the RFI,**
7 **right?**

8 A. It's -- it says: I am writing today
9 to request that your company contribute to the RFI.

10 Q. So he's encouraging Facebook to
11 **contribute to the RFI, right?**

12 A. He's definitely asking him to do so,
13 yes.

14 Q. And he says: Given that a large
15 **proportion of health misinformation is spread**
16 **through technology platforms, my Advisory includes**
17 **a call for technology companies to join this**
18 **broader effort to create a safer, healthier**
19 **information environment, right?**

20 A. Yes, that's what -- that's an
21 accurate reading of that portion of the letter.

22 Q. And he requests responses from
23 **companies about the extent and spread of COVID-19**
24 **misinformation on your platforms, policies to**
25 **address COVID-19 misinformation, and their**

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1 effectiveness, sources of COVID-19 misinformation
2 and so forth, right?

3 A. That's an accurate reading of that
4 portion of the letter.

5 Q. Were you involved in drafting the
6 letter? I think you probably were still on
7 paternity leave at this time, right?

8 A. Yeah. As I mentioned, this letter is
9 dated March 3rd and I was still on paternity leave.
10 So I was not involved in the drafting of this
11 letter.

12 Q. Did Max Lesko send similar letters to
13 other social media platforms?

14 A. I think so.

15 Q. Yeah. I mean, I don't want to put
16 six more exhibits in front of you, but would you
17 agree that he sent a very similar, basically
18 identically phrased letter to Google, LinkedIn,
19 Twitter, YouTube, and Microsoft all on that same
20 day, March 3rd, 2022?

21 A. I don't know if he did, but if you --
22 I don't have any reason to disbelieve that he did,
23 so. That, I believe was the plan.

24 Q. Let's just very briefly, I'm going to
25 e-mail those to your counsel and I'll pull them up

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1 **real quick.**

2 **And you said you're aware that that**
3 **was the plan, right?**

4 A. I think I became aware after I got
5 back that that happened. I wasn't part of the
6 planning process.

7 Q. Here on the screen share, I'm showing
8 you Exhibit 47. Similar letter to Sundar Pichai of
9 Google from Surgeon General Murthy about the RFI
10 dated March 3rd, correct?

11 A. Yes, that's the date of the letter.
12 Sir, if you're -- okay. Sorry.

13 Q. Exhibit 48, yeah, -- similar
14 letter --

15 A. Thank you.

16 Q. -- to the CEO of LinkedIn about the
17 RFI encouraging them to participate, correct?

18 A. It's a letter asking -- informing
19 them and requesting that they participate in the
20 RFI.

21 Q. In fact, these letters kind of all
22 have exactly the same text, right? Is that your
23 understanding?

24 A. You're moving the letters up and down
25 very quickly but I don't have any reason to believe

1 they're not virtually the same.

2 Q. Exhibit 49, similar letter to
3 Twitter, right, and Parag Agrawal, who was then the
4 CEO of Twitter?

5 A. Yes, it appears to be the same
6 functional letter. I'm not having much of an
7 opportunity to review it. But I don't have any
8 reason to believe it's not the same overall text
9 requesting that they participate in the RFI.

10 Q. Exhibit 50, same letter to Microsoft
11 -- I'm sorry, YouTube, I apologize. Same letter to
12 YouTube, correct?

13 A. You're okay. Yes, sir, I'm only
14 looking at part of the letter that you're sharing
15 and I can't actually review all of it in the way
16 that we're doing it right now. But it appears to
17 be the same form of a letter asking for a request
18 -- requesting that -- informing them about the RFI
19 and requesting that they participate.

20 Q. And then finally, Exhibit 51, similar
21 letter to Microsoft, correct?

22 A. That looks like it's to the Microsoft
23 corporation. Right now, I'm only being exposed to
24 the first couple of lines. But it looks -- the
25 first -- overall, it seems to be the same letter

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1 requesting that they participate in the RFI.

2 Q. Did all of those companies that got
3 the letter, did they all participate, do you know?

4 A. I don't know.

5 Q. Do you know if Facebook submitted
6 anything?

7 A. I think so. But I'm not positive.

8 Q. How about Google?

9 A. I don't know.

10 Q. How about Twitter?

11 A. I don't know.

12 Q. How about Microsoft?

13 A. I don't know.

14 Q. Shortly after the RFI was issued, the
15 Surgeon General gave an interview to GQ Magazine,
16 right? Does that ring a bell?

17 A. It does not.

18 Q. So you weren't -- let me -- let me
19 show Exhibit 52 on the screen share. Does this
20 dazzling picture of Surgeon General Murthy jog your
21 memory?

22 A. It does not.

23 Q. So you don't recall him giving an
24 interview to GQ Magazine on March 11th of 2022?

25 A. I do not.

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1 Q. Well let me just touch briefly on a
2 couple things in the interview and see what you
3 know about them.

4 On page 6 of the interview, Surgeon
5 General Murthy's asked about Spotify and Joe Rogan.
6 Do you remember a kind of controversy in February
7 of 2022 about whether Spotify should deplatform Joe
8 Rogan for allegedly spreading COVID misinformation
9 in his podcast?

10 A. I remember that Joe Rogan was having
11 controversial people on his podcast. That's about
12 the depth of my knowledge.

13 Q. So you don't remember a specific
14 controversy that related to Joe Rogan and COVID
15 misinformation?

16 A. I think that he was having guests on
17 who were talking about the COVID misinformation.
18 You asked about deplatforming. I don't recall
19 that.

20 Q. And in the interview, Surgeon General
21 Murthy says if you're running a platform whether
22 it's Spotify or another social media platform
23 you've got to think about how do I create a healthy
24 information environment, correct?

25 A. Can you please highlight the text,

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1 sir.

2 Q. Yeah, I'm having trouble with the
3 highlighting.

4 A. I can see. Okay. Everything's
5 highlighted. Hold on. I have it in front of me.
6 If you give me one moment, I can read that question
7 and answer in a short trip.

8 Q. Here, if -- it starts with --

9 A. Starting with the -- yeah, hold on
10 one second.

11 Q. There it goes again.

12 A. Okay.

13 Q. So he talks about creating if you're
14 a platform, whether it's Spotify or another social
15 media platform, you've got to think about how do I
16 create a healthy information environment here, how
17 do I create rules and a culture that promotes
18 accurate information. Correct?

19 A. Yes, that's an accurate reading of
20 the transcript.

21 Q. And he's saying this eight days after
22 the RFI was issued. Is he talking about what the
23 RFI is getting at, which is trying to get
24 information about how social media platforms can
25 create rules in a culture to promote accurate

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1 **information, right?**

2 A. I'm actually not sure, sir, that he
3 did this interview eight days afterwards. It was
4 published eight days afterwards. I don't know when
5 this interview was actually recorded.

6 And typically, for a magazine
7 article, it's usually done actually a few -- could
8 have been done weeks earlier. I don't know.

9 **Q. So you mentioned you didn't know he**
10 **was doing this interview, so maybe that answers my**
11 **question. But do you know whether the idea was to**
12 **have this interview come out in connection with the**
13 **RFI?**

14 A. I don't know but I'm doubtful that
15 that would have been the purpose of a GQ Magazine
16 interview.

17 **Q. Well, it would highlight the**
18 **information, or highlight the issue of COVID**
19 **misinformation; that's also what's being sought in**
20 **the RFI, correct?**

21 A. I don't think I -- again, Alex
22 Phillips would be the one to answer this question
23 as our communications director. But I don't think
24 GQ is where we were going to try to move the ball
25 on misinformation is my guess.

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1 Q. On the next page of the GQ interview,
2 going to page 7 here, you see where my cursor is,
3 where it says but I do think a platform has the
4 ability, the opportunity, and the responsibility to
5 create rules and a culture that supports the
6 dissemination of accurate information and that
7 reduces the spread of misinformation, correct?

8 A. Yes.

9 Q. And again, that's similar to what he
10 said on the previous page about creating rules and
11 a culture for the social media platforms, right?

12 A. Yes.

13 Q. And he goes on to say that he
14 believes this is, quote, different from censorship,
15 and he talk about how in America, we believe in
16 free speech. And he goes on to say right here:
17 But we also live in a society. That means we need
18 common rules for the common good. We have speed
19 limits on the road because we know that sometimes
20 if we drive too fast that can have an impact on
21 somebody else's health and well being. Right?

22 A. Yes, that's what the -- Dr. Murthy
23 said to the answer to this question.

24 Q. And that reference to speed limit
25 seems to echo his statement from the February

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1 podcast where he talked about the government
2 creating standards for misinformation on social
3 media platforms, right?

4 A. Sorry. Ask your question again, sir.

5 Q. Well, let me ask you this. It seems
6 to me that he's making a similar point here as he
7 made in the February 14th podcast that we looked at
8 earlier where he talked about the government having
9 a role to set standards for COVID -- for
10 misinformation on social media platforms.

11 Here, he's talking about speed limits
12 on the road, which are a standard that the
13 government sets to try and set guardrails around
14 what people do on the roads, right?

15 MS. CHUZI: Objection. Calls for
16 speculation.

17 Q. (BY MR. SAUER) If you know.

18 A. I don't know, sir.

19 Q. Do you know whether his reference to
20 speed limits is intended to, you know, refer to the
21 possibility of, you know, the government setting
22 some guardrails around misinformation?

23 MS. CHUZI: Same objection.

24 THE WITNESS: I -- I don't know. And
25 it just seems like he's trying to use an analogy or

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1 a metaphor to communicate the point that -- and I
2 read the "we" as him referring to society, and we
3 need rules for the common good so -- and the way
4 that the RFI is and the advisory are asking what
5 folks can do more of, I think it's trying to say
6 how can we create a better public square.

7 Q. (BY MR. SAUER) In other words, a
8 better public square is one that has more rules
9 that prevent the spread of misinformation, right?

10 MS. CHUZI: Objection.

11 Mischaracterizes the testimony.

12 THE WITNESS: I think -- I think what
13 he's saying is we need better public health
14 outcomes. And in this case, we want to make sure
15 that -- that we're not spreading it in a way --
16 spreading health misinformation in a way that's
17 causing outsized harm at the time of a pandemic
18 when people are dying every day and preventable
19 deaths because of misinformation.

20 Q. (BY MR. SAUER) Right. In other
21 words, the rules to stop those preventable deaths
22 due the misinformation include what he calls common
23 rules for the common good, right there where my
24 cursor is?

25 A. He says that means we need common

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1 rules for the common good, that is what he said,
2 yes.

3 Q. Yeah. And then he ananolges (sic)
4 those common rules for the common good to speed
5 limits on the road because we know that sometimes
6 if we drive too fast that can have an impact on
7 someone else's health and well being, right?

8 A. Yes. He uses that analogy.

9 Q. And he says if we're going to live
10 together in a society, we've got to take steps and
11 observe certain rules to help protect other people.
12 And that's true here as well, right?

13 A. Yes.

14 Q. Exhibit 53 -- actually before we talk
15 about this exhibit, you may have already answered
16 this, but do you know whether any of the social
17 media platforms responded to the RFI?

18 A. I think you already asked this
19 question, sir, but I said I didn't know who had
20 responded. You asked each individual organization,
21 and I said I thought Facebook might have responded,
22 and I didn't know about any of the others.

23 Q. Gotcha. Have you ever seen any of
24 the responses?

25 A. Not to my knowledge.

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1 **Q. How about responses from anyone else?**
2 **Obviously, the RFI was open to the public. Did**
3 **anyone else respond?**

4 A. I'm not aware. I assume there were
5 other responses.

6 **Q. Who in the Surgeon General's office**
7 **kind of receives those responses and processes**
8 **them?**

9 A. I think, again, Kyla Fullenwider was
10 the one running point on this.

11 **Q. Would there be anyone else besides**
12 **her?**

13 A. I think to the extent that Max was
14 helping shepherd the process, he may have been
15 aware or possibly seen it. But Kyla was the
16 subject matter expert who was guiding this RFI
17 process.

18 **Q. Would she be the only one that**
19 **reviews the responses?**

20 A. I don't know.

21 **Q. You don't know if she had other team**
22 **members reviewing responses?**

23 A. That's correct. I don't know.

24 **Q. Do you know what volume roughly of**
25 **responses were received? Sometimes you get, you**

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1 know, a hundred thousand comments; sometimes you
2 get five. Do you know roughly what volume was
3 received?

4 A. I don't recall.

5 Q. Did you ever know that or did you
6 just -- you don't remember or?

7 A. It's possible someone shared it with
8 me anecdotally, but I don't recall.

9 Q. Looking at Exhibit 53, is that up on
10 the screen share for you?

11 You were copied on an e-mail from
12 Brian Rice at Facebook directing to Rob Flaherty
13 and other White House officials including Tim
14 Manning, Dori Salcido, and Subhan Cheema, correct?

15 A. Yes, that is correct.

16 Q. And this is sent on June 22nd of
17 2022?

18 A. That's correct.

19 Q. And he also copies Rebecca Siegel of
20 HHS, right?

21 A. That's correct, Rebecca Siegel from
22 HHS is cc'd.

23 Q. Yeah. Who is she again? She was on
24 the one of the earlier e-mails and I can't remember
25 who you said she is.

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1 A. Rebecca Siegel was a member of the
2 public education campaign team; I think working
3 with the Kristina Schake.

4 Q. Okay. So she is in HHS outside of
5 the Solicitor (sic) General's office?

6 A. Outside the Surgeon General's office
7 yes, sir.

8 Q. Sorry. Yeah. And where are she and
9 Ms. Schake actually located? Are they in the
10 executive office of the secretary of HHS?

11 A. Ms. Schake, I think, left the -- left
12 HHS at the end of 2021 is my recollection. I don't
13 know what their reporting structure was. I think
14 -- I think Ms. Schake reported to the secretary is
15 my recollection.

16 Q. Here, in this e-mail, Brian Rice
17 says: Rob and team, wanted to ensure you were
18 aware of our policy updates following the early
19 childhood vaccine approval. Correct?

20 A. Yes, that is an accurate reading of
21 that first sentence.

22 Q. And I think you testified earlier
23 that you couldn't remember exactly when the early
24 childhood vaccine approvals came out. Here, does
25 this June 22nd e-mail refresh your recollection?

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1 A. Yes, it appears that that was -- that
2 it happened in the summer of 2022.

3 Q. Yeah, around sometime in late June of
4 2022. Fair to say?

5 A. Yeah, I think I was confusing the 5
6 to 11 versus the -- sort of the infants.

7 Q. Yeah. This is under 5, for children
8 under 5, right?

9 A. Correct.

10 Q. And Brian e-mails you all and says:
11 As of today, June 22nd, all COVID-19 vaccine
12 related misinformation and harm policies on
13 Facebook and Instagram apply to people six months
14 or older with the exception of the claim that the
15 COVID vaccines have full FDA approval since
16 children have only emergency use authorization.
17 Correct?

18 A. That's an accurate reading of that
19 sentence.

20 Q. So he's reporting back to you and the
21 White House, yet, again on how they've updated or
22 changed their policies to remove misinformation
23 from their platforms; is that right?

24 A. I again read this as him saying now
25 just sort of an update on how -- how this -- how

1 they're changing the definition of what's
2 misinformation.

3 Q. So in other words, they're updating
4 it to include claims about vaccines for children
5 under 5, right?

6 A. Correct.

7 Q. So that's a -- kind of an expansion
8 of the policy against COVID misinformation to
9 include a category of new claims, correct?

10 A. I think that's a fair -- that's a
11 fair reading.

12 Q. And he goes on to say: We expanded
13 these policies in coordination with the CDC and
14 ensured that we also included false claims that
15 might be connected to children, such as the false
16 claim that COVID vaccines cause MIS-C. Do you see
17 that?

18 A. I see that, sir.

19 Q. And so he reports how there's been an
20 expansion of their policies to address false claims
21 related to childhood vaccines, correct?

22 A. That's correct.

23 Q. Was this e-mail prior -- was this
24 e-mail sent to you guys out of the blue? Was there
25 any prior communication with Facebook about the

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1 under 5 vaccines that you're aware of?

2 A. I'm not aware of any communications
3 with them about under 5.

4 Q. So you think he just sent this update
5 unsolicited, or do you not know?

6 A. I don't know.

7 Q. So you don't know whether the, like
8 the White House people on this, Rob Flaherty, Tim
9 Manning, Dori Salcido, and Subhan Cheema might have
10 asked for what their position was going to be on
11 these?

12 A. I don't know.

13 Q. Did anyone from the Surgeon General's
14 office ask for this information to your
15 recollection?

16 A. Not to my knowledge.

17 Q. Exhibit 54, do you remember this
18 e-mail chain from July -- June and July of 2022?

19 A. Looks like the e-mail chain started
20 in February, if you go back to the beginning, if
21 I'm looking at the right exhibit, sir. It starts
22 as a COVID insights report biweekly in February of
23 2022.

24 Q. And then March of 2022?

25 A. And then they reup it for March.

1 Q. Then April of 2022?

2 A. Yeah.

3 Q. Then May?

4 A. Then May, then June, and that's where
5 he says: We'll plan to discontinue.

6 Q. Right.

7 A. And then Rob says: Yeah.

8 Q. Right.

9 A. Sounds like Rob -- Rob -- I think I
10 mentioned I maybe referred to this before, sir,
11 when you were asking when and if we ever stopped
12 getting these. So there is where Rob said he would
13 be fine discontinuing but he wanted to keep them as
14 we continued to work on under 5.

15 Q. Gotcha. Yeah, and I take it that --
16 I do recall you saying that. And that exchange I
17 think begins on June 13th of 2022, here on the
18 first page, right?

19 A. That's correct, yes.

20 Q. And Brian says: Attaching the recent
21 reports for your review. We will plan to
22 discontinue these unless we hear from you that this
23 information continues to be valuable. Is that
24 right?

25 A. That is what Rob -- that is what

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1 Brian writes to Rob, yes, and others.

2 Q. So Facebook is saying to Rob --
3 others including you, right, because you're copied
4 on this?

5 A. Yes, I'm cc'd on that e-mail.

6 Q. Did you -- were you ever asking for
7 these reports to continue?

8 A. I was not.

9 Q. How about anyone in the Surgeon
10 General's office or HHS, did they ask for the
11 reports to continue?

12 A. Nobody to my knowledge.

13 Q. But Rob Flaherty did, right, on June
14 13th?

15 A. Yes, as discussed, that they asked if
16 they can discontinue it, and Rob says that he
17 normally would say we are good to go to discontinue
18 but it would be help to continue to get these as we
19 start to ramp up for under 5 vaccines.

20 Q. And we know from the prior exhibit --
21 this is June 13th. We know from the prior exhibit
22 that the under 5 vaccines got authorized shortly,
23 right, in later June of 2022?

24 A. That sounds correct.

25 Q. And Flaherty says: Obviously that --

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1 meaning under 5 vaccines -- has a potential to be
2 just as charged, right?

3 A. That is what Rob has written.

4 Q. So he means that presumably that
5 that's a controversial topic; the vaccination of
6 children under 5 and might result in people posting
7 things on Facebook that Rob views as
8 misinformation, right?

9 MS. CHUZI: Objection. Calls for
10 speculation?

11 THE WITNESS: I'm not sure what Rob
12 means, but what you're saying doesn't sound crazy.

13 Q. (BY MR. SAUER) In other words,
14 that's a fair inference from what he's saying,
15 correct?

16 A. I'm not -- again, I don't know what
17 Rob means, but I think, yes, it seems like a fair
18 reading.

19 Q. And then as a result of that e-mail,
20 it looks like Brian Rice kept sending the COVID
21 reports, right? So here --

22 A. It would appear so.

23 Q. Here we got an e-mail on July 17th of
24 2022, right?

25 A. Yes.

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1 Q. And there were two more COVID insight
2 reports attached to that, right?

3 A. Yes. Yes. Correct.

4 Q. And you were copied on those as well,
5 right?

6 A. I'm copied on that, yes.

7 Q. Were you aware of any other
8 communications between anyone in the federal
9 government and Facebook in this time frame that
10 related to information about under 5 COVID
11 vaccines?

12 A. I was not familiar with that, sir.

13 MR. SAUER: David, how much time have
14 we been on the record?

15 THE VIDEOGRAPHER: We are at five
16 forty.

17 THE WITNESS: I think six forty.

18 THE VIDEOGRAPHER: Six forty. My
19 apologies. My apologies. Six forty.

20 MR. SAUER: Why don't we take a
21 five-minute break now and see if we can wrap up.

22 THE VIDEOGRAPHER: The time is 4:22
23 p.m. We are off the record.

24 (A short break was taken.)

25 THE VIDEOGRAPHER: The time is 4:27

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1 p.m. Central Standard Time. We are back on the
2 record.

3 Q. (BY MR. SAUER) Mr. Waldo, on Kyla
4 Fullenwider, whose name has come up multiple times
5 in this deposition, do you know, was she affiliated
6 with the Surgeon General's office all throughout
7 this time period from early 2021 through the RFI in
8 2022?

9 A. I only came into the office in June
10 of 2021, so I know that she was affiliated with the
11 office from the time I started until I still think
12 currently, today.

13 Q. And do you know if -- so she's still
14 affiliated with the office today, right?

15 A. To the best of my knowledge, yes.

16 Q. Is she a full-time employee or a
17 political appointee, do you know?

18 A. I think as we've discussed previously
19 as I've answered, I don't know what the nature of
20 her relationship, whether she's a contractor, an
21 IPA, a schedule A, etc.

22 Q. Do you know if she -- I mean, does
23 she kind of physically work, have her principal
24 place of work in the Surgeon General's office?

25 A. We're a hybrid office, so everyone

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1 can work from home and come in person. So I've
2 seen Kyla mostly on Zooms, but she has a place in
3 -- in DC and Virginia so I've also seen her at
4 inperson meetings.

5 **Q. So she's got a physical office in the**
6 **Surgeon General's office as well as remotely?**

7 A. I mean we have -- she has space she
8 can use in the Surgeon General's office. The
9 majority of the team does hybrid and works
10 remotely.

11 **Q. Does she still have a US Digital**
12 **Response e-mail, or does she have a HHS.gov e-mail?**

13 A. I don't know.

14 **Q. Do you know if she's a political**
15 **appointee?**

16 A. I would be surprised if she's a
17 political appointee. Most of the -- most of the
18 people in our office are schedule A appointees.

19 **Q. Do you know what her background was,**
20 **like what her job -- her career was like before she**
21 **worked for the Surgeon General's office?**

22 A. I think she was at the Kennedy School
23 doing something before she was in the Surgeon
24 General's office and I think she had done work in
25 the Obama administration. I don't recall for what

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1 agency.

2 Q. You don't know what the nature of the
3 work was?

4 A. I think it was data-related work.

5 Q. Is she a, kind of data expert?

6 A. I think that's one of the areas of
7 her expertise.

8 Q. What other areas of expertise does
9 she have?

10 A. I'm -- I'm not deeply familiar with
11 her bio.

12 MR. SAUER: No further questions.

13 MS. CHUZI: Nothing from the
14 Government.

15 THE VIDEOGRAPHER: The time is 4:30
16 p.m. We are off the record. This concludes our
17 deposition of Eric Waldo.

18

19

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21

22

23

24

25

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NOTARIAL CERTIFICATE

I, Tammie A. Heet, Registered Professional Reporter, certified Shorthand Reporter for the State of Illinois, and Certified Court Reporter for the state of Missouri and a duly commissioned Notary Public within and for the States of Missouri and Illinois, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me to the best of my ability and thereafter reduced to printing under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.


Tammie A. Heet, RPR, CSR, CCR



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1 Lexitas Legal
2 711 North 11th Street
3 St. Louis, Missouri 63101
4 Phone 314/644-2191

5 December 28, 2022

6 Ms. Amanda Chuzi, Esq.
7 U.S. Department of Justice
8 1100 L Street Northwest
9 Washington, D.C. 29530

10 RE: THE STATE OF MISSOURI, et al. v JOSEPH R.
11 BIDEN, JR., et al.

12 Dear Ms. Chuzi:

13 Please find enclosed your copies of the deposition
14 of ERIC WALDO taken on DECEMBER 22, 2022 in the
15 above-referenced case. Also enclosed is the
16 original signature page and errata sheets.

17 Please have the witness read a copy of the
18 transcript, indicate any changes and/or corrections
19 desired on the errata sheets, and sign the
20 signature page before a notary public.

21 Please return the errata sheets and notarized
22 signature page to Lexitas Legal, ATTN: Production
23 Department, 711 N. 11th Street, St. Louis, Missouri
24 63101 within 30 days of receipt of this letter.

25 Sincerely,

Tammie A. Heet, RPR, CSR, CCR

Enclosures

cc: Mr. Sauer Mr. Burns
Production Department

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1 STATE OF _____)
2 CITY OF _____)

3

4 I, ERIC WALDO, do hereby certify:

5 That I have read the foregoing deposition;

6 That I have made such changes in form and/or
7 substance to the within deposition as might be
8 necessary to render the same true and correct;

9 That having made such changes thereon, I
10 hereby subscribe my name to the deposition.

11 I declare under penalty of perjury that the
12 foregoing is true and correct.

13

14 Executed this _____ day of _____,
15 20____, at _____.

16

17

18 _____
ERIC WALDO

19

20 My Commission Expires: _____

21 Notary Public: _____

22 Signature Page Sent to: Ms. Chuzi

23

24

25

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1 ERIC WALDO
2 NAME OF DEPONENT
3 DEPOSITION CORRECTION SHEET
4 In re:THE STATE OF MISSOURI, et al. v JOSEPH R.
5 BIDEN, JR., et al.
6 Reported by: TAH
7 Upon reading the deposition and before subscribing
8 thereto, the deponent indicated the following
9 changes should be made:
10 Page Line Should Read:
11 Reason assigned for change:
12 Page Line Should Read:
13 Reason assigned for change:
14 Page Line Should Read:
15 Reason assigned for change:
16 Page Line Should Read:
17 Reason assigned for change:
18 Page Line Should Read:
19 Reason assigned for change:
20 Page Line Should Read:
21 Reason assigned for change:
22 Page Line Should Read:
23 Reason assigned for change:
24
25 _____
SIGNATURE OF DEPONENT

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